

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

Order Instituting Investigation on the Commission's Own Motion to actively promote the development of transmission infrastructure to provide access to renewable energy resources for California.

Investigation 08-03-010
(Filed March 13, 2008)

Order Instituting Rulemaking on the Commission's Own Motion to actively promote the development of transmission infrastructure to provide access to renewable energy resources for California.

Rulemaking 08-03-009
(Filed March 13, 2008)

**COMMENTS OF THE LARGE-SCALE SOLAR ASSOCIATION IN RESPONSE TO
ADMINISTRATIVE LAW JUDGE'S RULING
REQUESTING COMMENTS ON ASSEMBLY BILL 1954**

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December 6, 2010

On Behalf of Large-scale Solar Association

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I. INTRODUCTION

The Large-scale Solar Association ("LSA") appreciates this opportunity to provide its responses to Administrative Law Judge Simon's Ruling Requesting Comments on Assembly Bill 1954 ("Ruling"). AB 1954 has effected changes to Public Utilities Code Section 399.2.5 intended to advance the progress of transmission needed to realize California's Renewables Portfolio Standard ("RPS") program, and the Ruling seeks guidance on its implementation.

Timely permitting and construction of transmission remains one of the greatest obstacles to the success of the California RPS. Section 399.2.5, in turn, provides a key tool to obtain that success. The Commission has previously observed, with regard to Section 399.2.5 prior to its amendment, that "[t]he clear intent of the legislature was to facilitate the RPS by removing financial and regulatory barriers to transmission projects that are necessary to achieve the RPS goals."¹ With AB 1954, the Commission and the utilities can jointly eliminate an unnecessary

¹ Decision ("D.") 06-06-034 at 18 (2006).

obstacle to beginning work on transmission needed to facilitate the RPS, by removing the uncertainty that effectively holds transmission owners back from initiating engineering and procuring the long-lead time items that are essential to timely construction of transmission projects. LSA is delighted that the Commission is moving expeditiously to implement these tools, and are confident that it can significantly expedite construction of much needed transmission projects that will facilitate renewable energy in California. If we are to meet California's ambitious RPS and climate change targets, we simply must do better; with AB 1954, we now *can* do better.

II. Responses

The LSA provides its specific responses to the ALJ's questions below and looks forward to the opportunity to offer response comments, as provided in the Ruling.

1. What format should the Commission prescribe for a utility's certification in its advice letter "that it expects that the facility will be necessary to facilitate achievement of the renewables portfolio standard. . ." ? Please provide proposed language and/or a sample format.

The LSA does not take a position on the form of a utility's certification.

2. What showing should the Commission require a utility to make to support the utility's "expect[ation] that the facility will be necessary to facilitate achievement of the renewables portfolio standard. . ." ?

In order to give full effect to AB 1954, the LSA recommends that the Commission evaluate advice letters on an individual, case-by-case basis, providing that the utilities support their advice letter with information relevant to at least one significant criterion relative to the existing, three-prong test that the Commission has identified to determine whether a transmission line is "necessary to facilitate achievement of the renewables portfolio standard,"² such as a

² See D. 07-03-12 at 16 (2007).

Commission-approved Power Purchase Agreement that will rely on the proposed line. As the Commission and the utilities develop experience with these advice letters, it may be appropriate to provide additional structure and guidance.

3. What types of "costs incurred prior to permitting or certification" should be eligible for approval of cost recovery pursuant to § 399.2.5(c)(2)? What types of pre-permitting or pre-certification costs should not be eligible? Please be specific about the types of costs and the justification for concluding that each type should or should not be eligible for cost recovery pursuant to § 399.2.5(c)(2).

The Commission's existing precedent includes both project study and development costs within the categories of allowable expenses prior to commencement of construction.³ It is essential to timely transmission construction to provide these types of assurances, particularly with respect to long-lead time items, which must be ordered well in advance of construction start times, and which can often be used for other transmission projects or cancelled at little or no cost. If long-lead time items are not ordered prior to issuance of a Certificate of Public Convenience and Necessity, or if substantial engineering work has not been undertaken, the likelihood of reducing transmission construction time overall would be dismal.

4. Notwithstanding the prudence review required by § 399.2.5(c)(2), should the Commission place limits on the amount of "costs incurred prior to permitting or certification" that could be approved when presented by advice letter as authorized by § 399.2.5(c)(2)? If the Commission should impose limits on approval of pre-permitting or pre-certification costs, please propose a method for determining what the limits should be.

LSA recommends that the Commission not place any generic limitations on the amount of costs incurred prior to permitting or certification that could be approved when presented by advice letter. The prudence review required by Section 399.2.5(c)(2) is limited to the whether "the electrical corporation *administered* the approved costs reasonably and prudently"

³ See, e.g., Resolution ("Res.") E-4305 (2009).

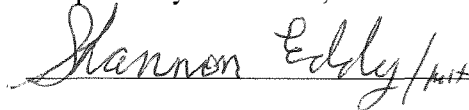
(emphasis added). The purpose of this section, and of its amendments, is to reduce uncertainty and thus allow timely progress on transmission planning, engineering, procurement and, ultimately, once approved, construction. The cost of transmission, and of its engineering and procurement, is highly project-specific. Generic limitations would decrease the effectiveness of the law, and be counter to its intent, because the utility would not be as likely to undertake the advanced engineering and procurement needed for prompt transmission development if it had continued risk that some of its prudently incurred costs may still not be recoverable.

III. CONCLUSION

The amendments to Section 399.2.5 resulting from AB 1954 hold the promise of improving the very lengthy transmission process that has long cast a threatening shadow over true renewable energy deliveries to California's customers. LSA greatly appreciates the Commission's prompt action to implement these new provisions, and urges the Commission to give these provisions broad effect, so as to realize their maximum benefit for the California RPS.

Dated: December 6, 2010

Respectfully submitted,



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*On Behalf of Large-scale Solar
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Certificate of Service

I hereby certify that I have this day served a copy of the:

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on all known parties to R.08-03-009 and I.08-03-010 by sending a copy via electronic mail and by mailing a properly addressed copy by first-class mail with postage prepaid to each party named in the official service list without an electronic mail address.

Executed on December 6, 2010, at San Francisco, California.

/s/ Marcus Hidalgo
Marcus Hidalgo