

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue
Implementation and Administration of
California Renewables Portfolio Standard
Program.

Rulemaking 11-05-005
(Filed May 5, 2011)

**REPLY COMMENTS
OF THE DIVISION OF RATEPAYER ADVOCATES
ON THE ORDER INSTITUTING RULEMAKING
REGARDING IMPLEMENTATION AND ADMINISTRATION
OF THE RENEWABLES PORTFOLIO STANDARD PROGRAM**

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June 9, 2011

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Pursuant to Ordering Paragraph 8 of the California Public Utilities Commission’s (“Commission”) *Order Instituting Rulemaking Regarding Implementation and Administration of the Renewables Portfolio Standard* (“OIR” or “R.11-05-005”) and the May 23, 2011 Administrative Law Judge’s Ruling Setting Prehearing Conference, the Division of Ratepayer Advocates (“DRA”) respectfully submits these reply comments.

I. DISCUSSION

A. Cost Containment Mechanism

Southern California Edison Company (“SCE”), among others, categorizes development of the cost containment mechanism as a Tier 3 issue, falling into the description of “longer term RPS programmatic issues”.¹ On the other hand, SCE identifies two clarifications – for RPS goals and product eligibility rules – that will “support transactions for the development of renewable resources” as Tier 1 issues.² DRA agrees that most of the items SCE identifies as falling into those two clarifications

¹ See the Issue Matrix filed as Attachment 1 to the Joint Parties Comments on the OIR, and SCE Comments on the OIR, pp. 9-10, both dated May 31, 2011.

² SCE Comments on the OIR, dated May 31, 2011, pp. 4-5.

are indeed Tier 1 issues.³ However, defining the cost limitation within which SCE will be going forward with RPS procurement is necessary for the same reasons. The same transactions to which SCE refers cannot be executed without knowledge of the cost limitation that will apply to the utility. The Large-Scale Solar Association, Golden State Solar Company, Green Power Institute, Amonix, Inc., Sierra Club California, Pacificorp, CLECA, and The Solar Alliance all agree that the cost containment mechanism is a top-tier issue.

B. Contract Price Amendments

DRA supports the Comments of EnXco and NextEra to consider a less tolerant approach toward price amendments within the second tier of this OIR.⁴ The quantity and magnitude of renewable contracts that come back to the Commission for price amendments – sometimes two or even three times – has been disconcerting and expensive both in administrative costs and final contract costs for ratepayers. It is certainly well within the scope of this proceeding to consider this issue.

C. Scheduling Issues

As discussed in its opening comments, DRA considers many of the issues identified by OIR as high priority in nature. The Joint Parties Issue Matrix attached to the Joint Party Comments filed on May 31, 2011 designates the issues DRA regards as high priority or “Tier 1” issues. DRA recommends that the Commission resolve these issues before the end of 2011.

Several parties have called for the resolution of high priority issues by October 2011. Although DRA does not oppose resolution of *some* high priority issues by October 2011, the Commission should refrain from overloading the initial phase of the proceeding with too many issues. Given the expedited timeline necessary for fully resolving any one of the major issues by October, including too many issues could result in a rushed and incomplete effort. While it is important to resolve these issues quickly, it is also

³ See the Issue Matrix filed as Attachment 1 to the Joint Parties’ Comments on the OIR, dated May 31, 2011.

⁴ Comments of EnXco and NextEra, dated May 31, 2011, p. 6.

important to do so effectively since the Commission will be implementing the framework of the 33% RPS program moving forward.

Therefore, the Commission should limit the initial phase of the OIR to a select number of the highest priority issues. The high priority or Tier 1 issues not resolved on a highly expedited schedule can be included in a separate phase that targets resolution by December 2011. The three issues which DRA designated as high-priority – (1) the cost containment mechanism; (2) RPS need assessment and (3) the margin of over-procurement – should be resolved by December 2011.

II. CONCLUSION

For the reasons stated above and in DRA's opening comments, the Commission should adopt a scope and schedule for the OIR consistent with DRA's recommendations. It is important that the Commission: (1) assign a high priority to the cost containment mechanism and resolve this issue expeditiously and (2) include a review of the current policy on contract price amendments within the scope of the OIR.

Respectfully submitted,

/s/ MARCELO POIRIER

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VERIFICATION

I, Marcelo Poirier, am an attorney for the Division of Ratepayer Advocates which is a party herein, and am authorized to make this verification on DRA's behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing are true and correct.

Executed on June 9, 2011 at San Francisco, California.

/s/ MARCELO POIRIER

Marcelo Poirier
Staff Counsel