

**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)

**MOTION OF CALIFORNIANS FOR RENEWABLE ENERGY, INC. AND SOLUTIONS
FOR UTILITIES, INC. TO STAY SETTLEMENT**

I. Introduction

In accordance with Rule 11.1 of the Commission's Rules of Practice and Procedure, Californians for Renewable Energy, Inc. ("CARE") and Solutions For Utilities Inc. ("SFUI") hereby submits this motion to stay settlement regarding Rule 21.

II. Background

The Commission has initiated a settlement effort¹ to resolve matters related to the investor-owned utilities' Electric Tariff Rule 21. Rule 21 generally describes the interconnection, operation, and metering requirements for generation facilities to be connected to a utility's distribution system.

On September 2, 2011, Administrative Law Judge Regina DeAngelis filed a Ruling describing the nature of the settlement presupposed by the Commission. On page 1, ALJ DeAngelis refers to Pub. Util. Code Sec. 399.20(e) regarding expedited interconnection procedures, and then footnotes the SB32 and SB2 1X Amendments to Section 399.20 Implementation Proceedings as what other proceeding might be discussed during the CPUC-hosted Rule 21 Settlement discussions. However, on page 2 of the ALJ Ruling, it states, "IT IS

¹ On August 23, 2011 Rachel Peterson of CPUC Energy sent an e-mail paraphrased below:
Rule 21 Working Group Attendees and Parties to Service Lists R.10-05-004, R.11-05-005, R.08-08-009, R.08-06-024, and A.08-11-001:
The staff of the California Public Utilities Commission is pleased to inform you that the CPUC is sponsoring settlement discussions as the next step in the "Rule 21 Working Group" process. Our goal is to reach a global settlement on issues regarding distributed generation interconnection to the investor-owned utility distribution system in California.

RULED that: Parties are hereby noticed that issues related to implementation of Section 399.20² of the Pub. Util. Code and other related issues in this proceeding [meaning R.11-05-005] “may be addressed during the Commission’s settlement efforts related to Tariff Electric Rule 21.” The ALJ first refers to the narrow 399.20(e), and then refers to all of 399.20, and then adds the “other related issues in this proceeding” and it appears the proposed Settlement could cover price paid to generators, interconnection procedures and applications, and the Power Purchase Agreement (PPA) all under the umbrella of “Tariff Electric Rule 21” Settlement.

The California Public Utilities Commission’s electricity and interconnection authority is pre-empted under the Federal Power Act (FPA) and Public Utility Regulatory Policies Act (PURPA) and the Federal Energy Regulatory Commission’s (FERC’s) exclusive jurisdiction over wholesale-sales-in-interstate-commerce transactions. Whether the Settlement discusses SB32 or any of the myriad of other Feed-In Tariff programs under the Rulemaking R.11-05-005 or any other Rulemaking, because the basis of Public Utilities Code Section 399.20 applies, or otherwise, to the RAM Program, the SPVP Program, the AB1613 Program, the AB 1969 Feed-in Tariff/CREST Program, The Net Surplus Compensation Rate Program, all of these transactions consist of wholesale sales by renewable generators to the Utility Companies. FPA, FERC and PURPA have exclusive jurisdiction.

On June 27, 2011 in the above captioned proceeding CARE requested that the Commission take official notice of the June 10, 2011 filing in the United States District Court, Central District of California; in *Solutions for Utilities, Inc., Californians for Renewable Energy, Inc, Plaintiffs v. California Public Utilities Commission, Southern California Edison, Inc., Defendants*, Complaint CV11-4975-SJO(JCGx).³

² PUC Section 399.20 is found at: <http://law.onecle.com/california/utilities/399.20.html>

³ <http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=12684088>


III. Conclusion

SFUI and CARE have a constitutionally protected right to judicial review and due process of law. The Commission actions taken on August 23, 2011 “to reach a global settlement on issues regarding distributed generation interconnection” is clearly established to foreclose our exercise of those rights through actions based on prejudice against us regarding our court action against CPUC challenging their authority over wholesale ratemaking outside of PURPA.

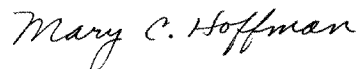
Additionally these rights to redress our grievances are protected by the First Amendment.

Since those “issues regarding distributed generation interconnection” are Federal Jurisdictional issues involving the FPA and PURPA; therefore we respectfully request the Commission Stay further settlement discussions regarding Rule 21.

Respectfully submitted,



Michael E. Boyd President (CARE)
CALifornians for Renewable Energy, Inc.
5439 Soquel Drive
Soquel, CA 95073
Phone: (408) 891-9677
E-mail: michaelboyd@sbcglobal.net



Mary C. Hoffman, President
Solutions For Utilities, Inc.
1192 Sunset Drive
Vista, CA 92081
Phone: 760.724.4420
Fax 760.724.8095
E-mail: mary@solutionsforutilities.com


September 6, 2011

Verification

I am an officer of the Intervening Corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except 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 is true and correct.

Executed on this 6th day of September 2011, at San Francisco, California.



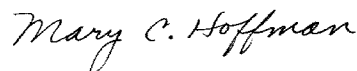
Lynne Brown Vice-President
CALifornians for Renewable Energy, Inc.
(CARE)

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Executed on this 6th day of September 2011 at Vista, California.



Mary C. Hoffman, President
Solutions For Utilities, Inc.
1192 Sunset Drive
Vista, CA 92081
760.724.4420 Office
760.724.8095 Fax