

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)

CLEAN COALITION REPLY COMMENTS ON PROPOSED DECISION GRANTING,
WITH MODIFICATIONS, THE MOTION BY CLEAN COALITION FOR IMMEDIATE
AMENDMENTS OF THE SOUTHERN CALIFORNIA EDISON COMPANY AB 1969
CREST POWER PURCHASE AGREEMENT

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November 7, 2011

CLEAN COALITION REPLY COMMENTS ON PROPOSED DECISION

The Clean Coalition respectfully submits these reply comments on the proposed decision issued October 11, 2011.

The Clean Coalition is a California-based advocacy group, part of Natural Capitalism Solutions, a non-profit entity based in Colorado. The Clean Coalition advocates primarily for policies and programs that enable the “wholesale distributed generation” market segment, which is generation that connects to the distribution grid for local use. The Clean Coalition is active in proceedings in many regulatory venues, including the Commission, Air Resources Board, and the Energy Commission in California; the Federal Energy Regulatory Commission; and in other state and local jurisdictions across the country.

The Clean Coalition again applauds the Commission for its timely action with respect to the pressing CREST issues raised in our motion. Our motion and the Proposed Decision (“PD”) propose small changes to an existing program. The intent is simple: allowing numerous CREST projects in the queue to secure financeable PPA contracts in time to obtain the federal section 1603 cash grant, bringing significant funds and ancillary economic benefits to the state of California.

The PD does not propose major changes or reopen previous policy decisions. In contrast, SCE’s opening comments seek to re-litigate previous decisions and add unnecessary complexity to what should be a straightforward, simple program fix. SCE’s comments should be dismissed as out of scope and the PD should be accepted by the Commission with only the minor changes we suggested in our opening comments.

We offer below some very brief replies in response to SCE’s opening comments.

I. Reply comments

a. Pricing

SCE recommends two options for changing the CREST price, with no basis in evidence to justify the re-litigation of existing CREST pricing put in place over three years ago. The Commission should dismiss SCE's suggestions.

The current MPR price is available now for CREST projects (until the new 2011 MPR takes effect) and there is no basis for removing the availability of the existing 2009 MPR price from the market. Moreover, such a change would contradict at a fundamental level the purpose of the Commission's renewable energy programs by negating key program details without due process or adequate notice. Many developers have actively pursued CREST projects, based in significant part on the available 2009 MPR pricing. To change this very key feature of the program at this point, without due process or fundamental fairness, would be a perverse outcome.

b. Contract terms

All of the contract modifications proposed in the PD are from previously vetted and approved PPAs. These changes should be accepted as is without further debate.

Although SCE provides alternatives taken from the RAM PPA, many of its recommendations include new language and modifications to the RAM language or 2011 SPVP that have not been vetted by stakeholders or approved yet by the Commission. Accordingly, SCE's suggestions to incorporate provisions from other contracts and to include new concepts and provisions in a revised CREST PPA should be dismissed.

c. Cash Grant eligibility

The PD correctly acknowledges that the urgent reform timeline is driven by the cash grant, as does SCE in its opening comments. However, there is no basis for adding more restrictions, as SCE proposes (SCE Opening Comments, p. 8). In fact, such restrictions may serve to discourage investment required to secure the cash grant by introducing additional risk to developers and their financial partners. Such a requirement has no precedent. Since the intent of the PD's reforms is to make the CREST program functional, the Commission should not impose hurdles that further limit program functionality.

II. Conclusion

The PD proposes a number of improvements to the currently stalled CREST program by implementing simple changes to the CREST contract, allowing advanced projects to move forward expeditiously. The PD should be adopted now in order for the cash grant opportunity not to be missed.

SCE's comments are generally out of scope and should be dismissed. The concepts introduced by SCE will only serve to delay the final decision, again risking the critical timeline for projects this year and the economic benefits that would otherwise positively impact labor, developers, and more broadly the state of California. We urge the Commission to move quickly to adopt the PD, with our minor changes suggested in opening comments.

Respectfully submitted,

TAM HUNT

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November 7, 2011

VERIFICATION

I am an attorney for the Clean Coalition and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in the foregoing pleading are true.

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 7th day of November, 2011, at Santa Barbara, California.

Tam Hunt

A handwritten signature in black ink, appearing to read 'TH' followed by a long, sweeping horizontal stroke.

Clean Coalition