

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

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

R.11-05-005
Sec. 399.20 Program
(Filed May 10, 2011)

**REPLY COMMENTS OF AGPOWER GROUP, LLC TO ADMINISTRATIVE
LAW JUDGE'S RULING (1) ISSUING STAFF PROPOSAL (2) ENTERING
STAFF PROPOSAL AND OTHER DOCUMENTS INTO THE RECORD
AND (3) SETTING COMMENT DATES**

Donald C. Liddell
DOUGLASS & LIDDELL
2928 2nd Avenue
San Diego, California 92103
Telephone: (619) 993-9096
Facsimile: (619) 296-4662
Email: liddell@energyattorney.com

Counsel for
AGPOWER GROUP, LLC

November 14, 2011

AGPOWER GROUP, LLC

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TABLE OF CONTENTS

I. INTRODUCTION.....2

II. THE AUCTION-BASED RAM APPROACH TO FIT PRICING IS COMPLETELY ALIEN TO THE ADMINISTRATIVE DETERMINATION APPROACH REQUIRED BY SB 32.3

III. AGPOWER HAS PROPOSED A TECHNOLOGY-SPECIFIC AVOIDED COST-BASED PRICING METHODOLOGY FOR BIOGAS-FUELED FIT PROJECTS.4

IV. CONCLUSION.....6

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In accordance with Rule 14 of the California Public Utilities Commission’s (“Commission’s”) Rules of Practice and Procedure and the *Administrative Law Judge’s Ruling (1) Issuing proposal, (2) Entering Staff Proposal and other Documents into the Record, and (3) Setting Comment Dates*, issued on October 13, 2011 (“ALJ’s Ruling”), AgPower Group, LLC (“AgPower”) submits reply comments on the “Revised Draft Renewable FIT Staff Proposal” attached to the ALJ’s Ruling (“Staff Proposal”).

I. INTRODUCTION.

AgPower strongly supports Opening Comments filed by parties that have explained the practical, legal, and policy reasons demonstrating that the renewable auction mechanism (“RAM”) is completely inappropriate for the SB 32 program.¹ It urges the Commission to categorically reject the Opening Comments filed by the utility and solar technology-oriented proponents of the RAM.² AgPower also agrees with the Opening Comments filed by parties that

¹ See, e.g., *Center for Energy Efficiency and Renewable Technology Comments on Sec. 399.20 October 13, 2011 Renewable FIT Staff Proposal*, and *Initial Comments of FuelCell Energy on October 13, 2011 Staff Proposal*, filed November 2, 2011.

² See, comments filed by Southern California Edison Company, Pacific Gas and Electric Company, San Diego Gas & Electric Company

have advocated for an *administratively determined* avoided cost pricing methodology designed specifically for biogas-fueled projects.³ It strongly disagrees in principal with parties that argue for head-to-head competition between PV solar and biogas-fueled projects strictly on the basis of a bid price.⁴ AgPower therefore refrains from point-by-point rebuttal of the details of Opening Comments filed by parties that are based on premises that are fundamentally mistaken. Finally, AgPower takes serious issue with any party that disregards the simple policy choice before the Commission: whether or not to approve a pricing methodology for feed-in tariffs (“FITS”) that can be financed and built to capture the well-recognized environmental and other societal benefits of biogas-fueled projects.⁵

II. THE AUCTION-BASED RAM APPROACH TO FIT PRICING IS COMPLETELY ALIEN TO THE ADMINISTRATIVE DETERMINATION APPROACH REQUIRED BY SB 32.

AgPower supports the summary statement by CEERT, for example, that “when read in context, the Legislature has directed this Commission to establish a standard Feed-In Tariff, not a market-based auction mechanism like RAM, for projects up to 3 MWs in size. Using the Commission’s analysis in D.10-12-048 as precedent, this statutory task is “distinct” from the RAM and, in fact, requires the Commission, understanding its pricing authority options, to establish an administratively-determined price for the FIT in that circumstance, requiring generators participating in the renewable FIT to become certified as QFs makes sense and is

³ See, e.g. *Comments of Sustainable Conservation and Green Power Institute on Revised Staff Proposal for a Feed-In Tariff*, filed November 1, 2011.

⁴ See, *Opening Comments of the Utility Reform Network on the Staff Feed In Tariff Proposal*, filed November 1, 2011.

⁵ Environmental factors far overshadow application of standard economic principles, such as portfolio diversity, or other policies that support pre-commercial technologies.

appropriate. Such an approach will also avoid legal challenges to the implementation of Section 399.20 that would be inconsistent with its “plain language” and intent as a whole.”⁶

AgPower similarly agrees with Fuel Cell Energy, for another example, that “the Commission cannot ensure that prices for SB 32 resources accurately reflect the IOUs’ avoided cost of procuring generators with the 'particular characteristics' identified above unless the Commission actually focuses on the relevant generators. In other words, before approaching the nuts and bolts of SB 32 pricing, the Commission should state clearly that the relevant point of comparison is what it would otherwise cost the IOU to procure a diverse portfolio of small renewable DG resources.”⁷

III. AGPOWER HAS PROPOSED A TECHNOLOGY-SPECIFIC AVOIDED COST-BASED PRICING METHODOLOGY FOR BIOGAS-FUELED FIT PROJECTS.

The AgPower proposal reiterated in these reply comments is based on the proposal previously submitted to the Commission by AgPower, and incorporates the ideas and comments of stakeholders that use various forms of biogas as their reference point. AgPower’s proposed FIT pricing formula is as follows:

$$\text{FIT}_{\text{hour } x} = \text{Base } x (\text{TOD factor}_{\text{hour } x}) \times (1 + \text{losses}) + \text{RCV} + \text{Avoided T\&D} + \text{RA value} + \text{quantifiable environmental benefits}$$

A resource adequacy (“RA”) adder and avoided transmission and distribution components will vary among the three utilities and with the operating characteristics of the specific generator.

The numbers in Table 1, below are approximate, and are presented for illustrative purposes.

⁶ CEERT Comments, at p.

⁷ Fuel Cell Energy, at p.

Table 1

Feed-in-Tariff Element, c/kWh	PG&E	SCE	SDG&E
Base	9.21	9.21	9.21
Above-Line Losses ²	5.8%	5.8%	5.8%
Grosse up for losses	9.74	9.74	9.74
Renewable Content Value (RCV) ³	5.00	5.00	5.00
Avoided Transmission ⁴	0.25	0.30	0.27
Avoided Distribution ⁴	0.73	0.39	0.68
Resource Adequacy Value ⁵	0.52	0.52	0.52
VOC Savings at Dairies ⁶	0.40	0.40	0.40
Other Environmental Benefits ⁷	0.29	-0.06	0.41
TOTAL	16.93	16.29	17.02

Sources

1. 10-year contract beginning in 2012; no TOD factor
2. Based on 7.8% total T&D losses, as used in September 2010 Staff Report in SGIP modifications proceeding (R.10-05-004), page 58.
3. CALSEIA’s Opening Comments, Attachment A, page 9.
4. Calculated from data used to evaluate the cost-effectiveness of demand response in A.11-03-001, et al.
5. AgPower Estimate for biogas generator
6. AgPower Estimate for biogas generator
7. CALSEIA’s Opening Comments, Attachment A, 32. The value for PG&E is for the San Joaquin Valley. The value for PG&E not in the San Joaquin valley is -0.04¢/kwh.

The pricing example above is a reflection of the actual cost of procuring renewable energy from “generators with those characteristics” as described by the FERC and the “actual procurement requirements” of SB 32. This is not a subsidy for biogas generators in order to allow the biogas industry to mature. AgPower has never advocated subsidizing biogas development. The Commission should simply assure that, as a practical matter, Section 399.20 does in fact make the FiT available to *all* eligible renewable generation resources.

IV. CONCLUSION.

AgPower appreciates the opportunity to submit these reply comments in response to the opening comments filed by the parties, and looks forward to continuing to work with the parties and the Commission going forward.

Respectfully submitted,



Donald C. Liddell
DOUGLASS & LIDDELL

Counsel for
AGPOWER GROUP, LLC

November 14, 2011

VERIFICATION

I, Donald C. Liddell, am counsel for the AgPower Group, LLC and am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing copy of the *Reply Comments of AgPower Group, LLC to Administrative Law Judge's Ruling (1) Issuing Staff Proposal, (2) Entering Staff Proposal and Other Documents into the Record and (3) Setting Comment Dates*, filed in R.11-05-005, are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

Executed on November 14, 2011, at San Diego, California.



Donald C. Liddell
DOUGLASS & LIDDELL

Counsel for
AGPOWER GROUP, LLC