

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)
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**CALIFORNIA SOLAR ENERGY INDUSTRIES ASSOCIATION
REPLY COMMENTS IN RESPONSE TO RULING DATED OCTOBER 13, 2011**

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In accordance with the Administrative Law Judge’s Ruling Requesting Reply Comments on the “October 13, 2011 Renewable FIT [feed-in tariff] Staff Proposal” (*Revised Staff Proposal*), dated October 13, 2011, the California Solar Energy Industries Association (CALSEIA) provides the following reply to parties’ opening comments on the issues and questions raised in the *Revised Staff Proposal*.

I. CALSEIA Supports Parties’ Objections to Setting the Initial Feed-In Tariff Prices upon Renewable Auction Mechanism Bids.

At least four parties, as well as CALSEIA, submitted opening comments objecting to the *Revised Staff Proposal*’s recommendation to set initial FIT prices upon outcomes of PG&E’s, SCE, and SDG&E’s November 2011 RAM solicitations: Agricultural Energy

Consumers Association (AECA), Center for Energy Efficiency and Renewable Technologies (CEERT), California Wastewater Climate Change Group (CWCCG), and the Division of Ratepayer Advocates (DRA). Below are excerpts from their opening comments opposing use of RAM prices to set FIT prices.

AECA¹ Excerpts

- “...the RAM price is not an appropriate benchmark for a small renewable FiT program.”
- “The Commission cannot risk the FiT program on “blind faith” in an entirely different procurement program that was not designed to implement section 399.20 and which has not been tried and tested.”

CEERT² Excerpt

“Quite simply, the RAM itself is not targeted to, nor was conceived to address, the small projects that are the subject of Section 399.20.”

CWCCG³ Excerpt

“The Legislature did not intend for projects under 3 MW to compete in auctions. It is therefore difficult to see how using the results of an auction process in which those technologies are not expected to participate would provide an adequate benchmark.”

DRA⁴ Excerpt

¹ From Pages 4 and 5, respectively. See <http://docs.cpuc.ca.gov/efile/CM/146829.pdf>.

² From Page 12. See <http://docs.cpuc.ca.gov/efile/CM/146787.pdf>.

³ From Page 4. See <http://docs.cpuc.ca.gov/efile/CM/146940.pdf>.

⁴ From Page 2. See <http://docs.cpuc.ca.gov/efile/CM/146876.pdf>.

“DRA disagrees with the Staff Proposal to derive the SB 32/FiT tariff price from each of the Investor Owned Utilities’ (IOUs’) Renewable Auction Mechanism (RAM) market clearing prices.”

Both AECA’s and CEERT’s comments note that RAM prices should not be used to set initial FIT prices for “small” renewable generation projects. CWCCG’s comments support this argument by paraphrasing legislative intent from former SB 32.⁵ This law was enacted one year before the Commission created the RAM program,⁶ yet the Commission included projects between 1⁷ and 3 MW within the scope of the RAM program, creating an unfortunate overlap between the State-mandated FIT program and the Commission-created RAM program. The *Revised Staff Proposal* is now using this overlap to justify basing initial FIT process upon the bids received under the first-round RAM solicitations, which close for bids on November 15, 2011.

Using RAM bids to set FIT prices for projects below 1 MW is inappropriate, because these bids do not represent under-1MW projects’ “avoided costs.” The *Revised Staff Proposal* recognizes that renewable generation projects below 1 MW will likely participate in the FIT program, because it has recommended setting lower development deposits for them.

⁵ SECTION 1 (c) of Chapter 328 of the Statutes of 2009 states, “Small projects of less than three megawatts that are otherwise eligible renewable energy resources may face difficulties in participating in competitive solicitations under the renewables portfolio standard program.” See http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sb_32_bill_20091011_chaptered.pdf.

⁶ Commission Decision 10-12-048, dated December 16, 2010, http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/128432.pdf.

⁷⁷ A RAM bid to sell 1 MW may be composed of two, 500 kW projects.

CALSEIA maintains that the FIT program should be segregated by project size -- less than 1 MW and 1 to 3 MW – and that a FIT price should be set for projects less than 1 MW. For rooftop solar photovoltaic projects applying for FIT contracts, CALSEIA recommends that FIT prices be determined using data from the California Solar Initiative (CSI) database. The CSI database provides a wealth of project-specific details including completion data, total cost, and three measures of installed capacity (including the most conservative “CSI Rating”).

CALSEIA recommends that the initial FIT price for rooftop solar photovoltaic systems be based on the average Levelized Cost of Energy (LCOE) of completed projects installed in 2011, which received performance-based incentives (that is, projects 30 kW and larger, up to 1 MW). This is the most accurate and reliable dataset available, reflecting actual market pricing, with hundreds or thousands of verified data points rather than the few, if any, data points available from the RAM program. Commission staff is quite capable of extracting from this rich data source the most accurate reflection of the true market price for the systems that have actually been installed in California, rather than waiting many months for a handful of 20 MW RAM projects, many of which are unlikely to be built.

II. CALSEIA Agrees with Sustainable Conservation’s Arguments Supporting the Technology-Specific FIT Price-Setting.

Sustainable Conservation’s opening comments on the *Revised Staff Proposal* urged the

Commission to set technology-specific FIT prices rather than using the following RAM solicitation categories to set initial FIT prices: peaking as-available, non-peaking as available, and baseload,

“Establishing separate prices for different renewable technologies is a much better policy outcome that will enable specific technologies to help diversify California’s renewable energy portfolio.”

CALSEIA agrees with Sustainable Conservation’s point that setting technology-specific prices under the FIT program furthers the State’s resource-diversity mission. The *Revised Staff Proposal*, however, accepts this earlier argument posed by Southern California Edison: Since the RPS is “technology neutral,” and since the RAM and FIT are programs under the RPS, then the RAM and FIT must also be “technology neutral.” CALSEIA respectfully reminds the Commission staff that the word “portfolio” in RPS refers to the importance of procuring a diversity of renewable resources. In addition, the Federal Energy Regulatory Commission’s FIT order gave the Commission clear authority to do so.

TURN’s opening comments⁸ argued against setting technology-specific prices by stating,

“The legislature explicitly rejected attempts to create technology-specific cost-based prices based on the opposition of TURN, the IOUs and other parties. SB 32 did not include carve-outs or set-asides for particular technologies, and the Commission should reject efforts to mutate this program into something far removed from the expressed intent of the Legislature.”

⁸ See Page 11 at <http://docs.cpuc.ca.gov/efile/CM/146846.pdf>.

TURN is jumping to conclusions. Establishing technology-specific prices under the FIT program does not create procurement carve-outs or set-asides for specific technologies. FIT projects still would be selected on a first-come, first-serve basis, as specified in the FIT statute.⁹ The purpose of setting technology-specific prices would be for renewable project developers to determine whether they should apply for a FIT contract, because the offered price is sufficient to earn them an acceptable rate of return on investment.

III. CALSEIA Support’s San Diego Gas and Electric Company’s Approach to Designing a Voluntary FIT for its Service Territory.

San Diego Gas and Electric Company’s opening comments included the following statement:

“SDG&E intends to continue discussions with local stakeholders on the objectives... [that is, fairness to all customers, expand access to renewable energy to all customers, strive to maximize cost-effectiveness for ratepayers, promote job creation in the San Diego region and optimize impacts to SDG&E’s electric system] and based on economic, environmental and social values with straight-forward transparent rules and policies that create sustainable market certainty for all within the SDG&E service territory. Should these discussions result in consensus among stakeholders on additional options for a FIT, SDG&E may propose a voluntary program and make appropriate regulatory filings so that any such program can be considered by the Commission and all potentially impacted parties.”¹⁰

⁹ Section 399.20 (f).

¹⁰ Page 3, <http://docs.cpuc.ca.gov/efile/CM/146874.pdf>

CALSEIA supports this stakeholder approach to designing a voluntary FIT program and looks forward to working with SDG&E on it.

IV. CALSEIA Supports CEERT’s Recommendation Not to Reduce SB 32’s 750 MW Capacity Obligation with Contracted Capacity under the “Existing FIT” Program.

CEERT’s opening comments stated,

“...[T]he Commission should make clear that any standard tariff that results from implementation of Section 399.20, as amended by SB 32 and SB1X 2, will not supplant the existing AB 1969 tariffs (250 MW cap). Instead, those tariffs should remain and the new standard tariffs serve to procure energy in addition thereto (750 MW cap).”¹¹

CALSEIA agrees with CEERT that the legislature did not intend SB 32’s 750 MW cap to be reduced by the existing FIT program.

V. CALSEIA Supports Using Pricing Triggers to Adjust FIT Rates.

SCE proposed a FIT price-adjustment method “to avoid... the problem of administratively-set prices that are too high or too low...[E]ach month, [t]he price would increase if there is no program subscription, decrease if there is full program subscription, or remain the same if there is partial subscription. This market-based pricing methodology allows the

¹¹Page 14, <http://docs.cpuc.ca.gov/efile/CM/146787.pdf>.

renewable FiT price to constantly adjust to the market without the need for guesses regarding the prices the market will bear.”¹²

The Solar Alliance offered an improvement to this method in its opening comments on the Revised Staff Proposal,

Pricing Trigger

The Solar Alliance would recommend the following pricing trigger, which incorporates certain ... elements of the CALSEIA, Vote Solar and Clean Coalition proposals in its recommended automatic upward and downward triggers of program price.

Setting the initial price and initiating the program should commence a program “launch” period of 1 month. If less than 2 applications are received in that period by an IOU, then that IOU’s program price should increase by 5%. If after the price increase the IOU receives 2 or more subscriptions in the following month, then that pricing should remain in effect until the IOU has reached 50% of its allocated share of program MWs. If after the price increase the IOU has does not receive 2 or more subscriptions in the following month, then the price should be ratcheted up another 5%. This process continues until the IOUs receive 2 or more subscriptions in a single month, then, as stated above, the price remains in effect until the IOU reaches 50 percent of its allocated share of program MWs. At that point, in the same regressive manner as the CSI program, the price will begin to drop. In this regard, when the IOU reaches 50 percent of its allocated program share the rate will drop by 5 percent. The same process occurs when the IOU reaches 75 percent of its allocated program share.

The concept behind the Solar Alliance’s proposal is to spur market activity. Once the new program has taken a foot hold and is prospering then, comparable to the regressive incentive levels under the CSI program, the amount of compensation can level off. The Solar Alliance would also add as a qualifier to its proposal that transparency around the increases and decreases in price is essential. Thus, at the point in which an IOU is about to trigger a price change, it must notify the Commission and the Service List for this proceeding (in much the same way that the CSI program administrators notify the Commission when they reach a new incentive level) as well as posting the information on its program’s webpage.

All successful FIT programs create an atmosphere of certainty around their FIT rates. This is, after all, the fundamental purpose of establishing a tariff; so that participating residential and commercial ratepayers can know with certainty what they would be paid for the power

¹² Page 3, <http://docs.cpuc.ca.gov/efile/CM/146887.pdf>.

they generate. The more stability and certainty there is, the more confidence participating ratepayers can have in their cost-effectiveness calculations and the less time and money they might waste pursuing infeasible projects due to tariffs that change without sufficient notice.

Much of the success of the CSI program can be attributed to the steady and predictable drop in performance-based incentives throughout the program which allowed program participants enough time and predictability to design and build their projects.

CALSEIA suggests that all FIT projects should be registered and publicly tracked, with expected installation dates and realistic-but-short milestones so that anyone can look at the data well in advance and figure out how many MW will likely be installed by the cut-off date. There will be a small amount of uncertainty around this scheme, but it should be acceptable to FIT-participating ratepayers if they can establish a finite range of possible results based on a known list of projects that are underway.

CALSEIA supports the Solar Alliance proposal with one modification: Rather than issue notices to parties on this proceeding's service list, post the relevant data on the utilities' websites (such as the CSI Trigger Tracker), so that solar FIT customers and developers can monitor market activity, understand how close the utility is to a price drop, and what the lower price would be. If this data were easily accessible, then the utilities would not need to notify parties on service list of this proceeding.

CALSEIA appreciates this opportunity to reply to others' comments on the Revised Staff Proposal.

Signed by:

A handwritten signature in cursive script that reads "Mignon Marks".

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VERIFICATION

I, Mignon Marks, represent the California Solar Energy Industries, and am authorized to make this verification on the behalf of the association. The statements in the foregoing documents are true to the best of my knowledge, except for those matters that are stated on information and belief, and to those matters, I believe them to be true.

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

Dated November 14, 2011 at Rancho Cordova, California.

/s/

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