

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)

RIGHTCYCLE MOTION FOR PARTY STATUS AND
POST-WORKSHOP COMMENTS ON SB 32 STAFF PROPOSAL

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November 2, 2011

RIGHTCYCLE MOTION FOR PARTY STATUS

RightCycle requests party status in this proceeding in accordance with Section 1.4 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure.

RightCycle is a consulting company focused on renewable energy policy in California, other states and on federal policy. More information on RightCycle may be found at <http://www.rightcycle.com/>.

RightCycle requests party status primarily to submit the below comments on Self-Generation Incentive Program interaction with SB 32. There may be, however, other concerns that require RightCycle involvement during the course of this proceeding.

Correspondence should be sent (only when hard copies are required) to:

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RIGHTCYCLE POST-WORKSHOP COMMENTS ON
SB 32 STAFF PROPOSAL

RightCycle respectfully submits these post-workshop comments on the SB 32 staff proposal, pursuant to the Administrative Law Judge's Ruling dated October 13, 2011.

I. Comments

a. Interaction of SB 32 with Self-Generation Incentive Program (SGIP)

An important area that needs to be considered in this proceeding is how the new Self-Generation Incentive Program (SGIP) will interact with SB 32. The new SGIP rules allow up to 25% export of power under a feed-in tariff. This proceeding should clarify how the SGIP export option will work with the SB 32 feed-in tariff.

D.11-09-015 implemented SB 412 and made a number of changes to the existing SGIP. One of these changes was to allow up to 25% export of power under a feed-in tariff. The decision mentions AB 1613 in its discussion of this new option, which is an existing cogeneration feed-in tariff, but the decision does not in any way preclude other feed-in tariffs from being utilized with SGIP projects.

SB 32 states the following with respect to the SGIP (section 399.20(k), emphasis added):

(k) (1) Any owner or operator of an electric generation facility that received ratepayer-funded incentives in accordance with Section 379.6 [codifying SGIP], or with Section 25782 of the Public Resources Code, and participated in a net metering program pursuant to Sections 2827, 2827.9, and 2827.10 prior to January 1, 2010, shall be eligible for a tariff or standard contract filed by an electrical corporation pursuant to this section.

(2) In establishing the tariffs or standard contracts pursuant to this section, the commission shall consider ratepayer-funded incentive payments previously received by the generation facility pursuant to Section 379.6 or Section 25782 of the Public Resources Code. The commission shall require reimbursement of any funds received from these incentive programs to an electric generation facility, in order for that facility to be eligible for a tariff or standard contract filed by an electrical corporation pursuant to this section, unless the commission determines ratepayers have received sufficient value from the incentives provided to the facility based on how long the project has been in operation and the amount of renewable electricity previously generated by the facility

The key provision that will require clarification by the Commission in this proceeding is “unless the commission determines ratepayers have received sufficient value...” in subsection 399.20(k)(2).

D.11-09-015 states that the 25% SGIP export may be compensated by a feed-in tariff. That is, if an SGIP facility is producing at its expected capacity factor (as described in the draft 2011 SGIP Handbook), up to 25% of that production should be compensable under SB 32 if an SB 32 contract is in place for that project and the power is exported to the grid.

The decision in the present proceeding should be explicit that this arrangement is permitted under SB 32 and should direct the utilities to modify their tariffs accordingly (the utilities will not permit this kind of arrangement without explicit direction by the Commission to incorporate into the relevant tariffs). The remaining 75% of the SGIP production will be used on-site and will be compensated under the new SGIP hybrid production-based incentive (PBI).

A complication arises, however, in terms of the ability for a generator to receive compensation for export under a feed-in tariff as well as the SGIP payment for that exported power in certain limited circumstances. Specifically, when an SGIP facility

produces power above its expected capacity factor (as provided for in the SGIP Handbook), it may receive compensation under the SGIP PBI and a feed-in tariff for that additional exported power, up to the 25% limit. The decision states, in an example to illustrate the new SGIP export mechanism (pp. 59-60, emphasis added):

Now assume that the actual capacity factor [for a hypothetical CHP facility] is 90% instead of 80%, total generation is 10.3 GWh while on-site consumption remains constant at 7 GWh. The 90% capacity factor is partially attributed to on-site load as follows: $(90\% * 1\text{MW} * 8760) = 7.9$ GWh. This increased generated would benefit from the higher capacity factor, and would receive a PBI payment of \$56,252 $(0.7 \text{ cents} * 7.9 \text{ GWh} * 8760)$, even though 0.9 GWh of this amount attributed to “on-site” capacity was exported. In this example, a total of 3.3 GWh would be exported, with 0.9 GWh of this total being compensated under both the PBI and FIT tariffs. Without this arrangement, DER [SGIP] projects which export larger quantities of electricity to the grid due to higher capacity factors would never be able to receive accelerated PBI payments.

This is an area where section 399.29(k)(2) seems to require clarification by the Commission in the present proceeding. RightCycle recommends, under the same rationale the Commission adopted in D.11-09-015, that the same rules that apply with respect to receiving compensation under the SGIP PBI and the AB 1613 feed-in tariff should also apply with respect to SB 32. That is, the Commission should allow for compensation under SB 32 for up to 25% export of power, when a facility exceeds its expected capacity factor, even if some of that power is also compensated under the hybrid PBI. As the Commission stated in D.11-09-015: “Without this arrangement, DER [SGIP] projects which export larger quantities of electricity to the grid due to higher capacity factors would never be able to receive accelerated PBI payments.” Similarly, SGIP projects that operate at higher capacity factors than expected (a good thing for all ratepayers), would not be able to receive feed-in tariff compensation for that excess under SB 32 unless the Commission explicitly allows for such compensation pursuant to SB 32 and directs the utilities to incorporate this provision into their SB 32 tariff and PPAs.

More generally, the SB 32 feed-in tariff should be available to SGIP generators, in addition to the AB 1613 feed-in tariff that is explicitly mentioned in D.11-09-015, because the AB 1613 FIT is available to non-renewable as well as renewable CHP generators. SB 32 is only for renewable generators, including biomass CHP facilities, and it is for this reason that compensation under SB 32 will probably be at a higher rate than under AB 1613. Renewable power is more valuable to ratepayers than non-renewable power.

II. Conclusion

We thank the Commission in advance for its consideration of these issues in its Proposed Decision.

Respectfully submitted,

TAM HUNT

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Dated: November 2, 2011

VERIFICATION

I am an attorney for RightCycle 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 2nd day of November, 2011, at Santa Barbara, California.

Tam Hunt

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

Attorney for RightCycle