

**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)

**COMMENTS OF CONSTELLATION NEWENERGY, INC.
ON OCTOBER 13, 2011 REVISED DRAFT RENEWABLE FEED-IN TARIFF
ENERGY DIVISION STAFF PROPOSAL**

Andrew B. Brown
Ellison, Schneider & Harris, LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Telephone: (916) 447-2166
Facsimile: (916) 447-3512
Email: abb@eslawfirm.com

Attorneys for Constellation NewEnergy, Inc.

November 2, 2011

{00033548;2}

SB_GT&S_0736060

**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)

**COMMENTS OF CONSTELLATION NEWENERGY, INC.
ON OCTOBER 13, 2011 REVISED DRAFT RENEWABLE FEED-IN TARIFF
ENERGY DIVISION STAFF PROPOSAL**

Pursuant to the October 13, 2011 Administrative Law Judge's Ruling (1) Issuing Staff Proposal (2) Entering Staff Proposal and Other Documents Into the Record and (3) Setting Comment Dates (ALJ Ruling), Constellation NewEnergy, Inc. hereby submits the following comments on the October 13, 2011 Revised Draft Renewable Feed-In Tariff (FIT) Energy Division Staff Proposal (Revised Staff Proposal).

I. Introduction and Background

Constellation is pleased to offer the following comments on the Revised Staff Proposal. By way of background, Constellation Energy Group, Inc., the parent company of Constellation NewEnergy, Inc., is a diversified Fortune 200 energy company, serving retail and wholesale customers throughout the U.S. including two-thirds of the Fortune 100 through its subsidiaries. In California, Constellation NewEnergy, Inc. (Constellation) operates from over 19 locations. Constellation is also one of the nation's leading solar developers, designing, financing, and constructing solar projects that will help California meet its renewable portfolio standard.

Constellation supports the Revised Staff Proposal as a substantial improvement to the existing Section 399.20 FIT program. Harmonizing the Renewable FIT program and the Renewable Auction Mechanism (RAM) program will be an effective way to ensure the

successful deployment of renewable technology, while relying on market signals to determine the appropriate price.

II. Section VII.a.i. – Determining the FIT Base Price – The FIT Base Price Should be Based on RAM Pricing

FIT prices should be based on market signals, which are best achieved by tying FIT prices to the RAM results for each product category. In instances where no RAM contracts have been executed, the California Public Utilities Commission (Commission) should rely on Option 2: Set Price at MPR Plus Adders of the proposals offered in the draft.¹ In the absence of the preferable market signals from the RAM results, setting the price at the market price referent (MPR) and adjusting it for various adders is the best method of promoting a correlation to market prices.

III. Section VII.a.iii. – Price Adjustment – SCE’s Proposal Should be Modified to Re-Set the Base Price After Each RAM Solicitation

Constellation supports the flexibility of the SCE pricing trigger proposal. Utilizing RAM results to establish the initial market price and adjusting that figure on a monthly basis by a reasonable amount will allow the Commission to make corrective adjustments without ignoring market signals. The initial market price, however, should be re-set after each RAM solicitation with monthly adjustments made between RAM solicitations. This will ensure that both programs remain aligned, and are based on market signals.

IV. Section VII.i. – Project Viability and Queue Management

Project viability and queue management are critical parts of any successful and sustainable renewable program. The proposal set forth in the Revised Staff Proposal will provide a fair and reasonable means of preventing “place holding,” which may trigger price

¹ Option 2 is found on page 3 of the Revised Staff Proposal.

VERIFICATION

I am the attorney for Constellation NewEnergy, Inc.; Constellation NewEnergy, Inc. is absent from the County of Sacramento, California, where I have my office, and I make this verification for that reason. The statements in the foregoing document are true of my own knowledge, except as to 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 November 2, 2011 at Sacramento, California.

/s/

Andrew B. Brown
Ellison, Schneider & Harris, LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Telephone: (916) 447-2166
Facsimile: (916) 447-3512
Email: abb@eslawfirm.com

Attorneys for Constellation NewEnergy, Inc.