

11/17/2011 L. Jan Reid

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 11-05-005
(Filed May 5, 2011)

**COMMENTS OF L. JAN REID
ON PROPOSED DECISION OF ALJ SIMON**

November 17, 2011

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I. Overview

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, L. Jan Reid (Reid) submits these opening comments on the proposed decision (PD) of Administrative Law Judge (ALJ) Anne Simon in Rulemaking 11-05-005 concerning the procurement quantity requirements for retail sellers in the Renewables Portfolio Standard (RPS) program. (Agenda ID #10795) Chief ALJ Karen Clopton mailed the PD on October 28, 2011. Opening comments are due Thursday, November 17, 2011. I will file this pleading electronically on the due date, intending that it be timely filed.

The PD adopts procurement quantity requirements for retail sellers in the RPS program for the years 2011-2020. I urge the Commission to modify the PD by adopting the RPS targets given in Section III and by correcting the errors identified below.

II. Recommendations

I have relied on state law and past Commission decisions in developing recommendations concerning the implementation of Senate Bill 2(1x) (SB2(1X)). I recommend the following:¹

1. The Commission should set RPS compliance goals of 19% in 2011, 20% in 2012, and 21% in 2013. (pp. 2-3)
2. The Commission should set RPS compliance goals of 22.33% in 2014, 23.67% in 2015, and 25% in 2016. (pp. 2-3)
3. The Commission should set RPS compliance goals of 27% in 2017, 29% in 2018, 31% in 2019, and 33% in 2020. (pp. 2-3)

¹ Citations for these recommendations and proposed findings are given in parentheses at the end of each recommendation and finding.

My recommendations are based on the following proposed findings:

1. The term “intervening years” in PUC § 399.15 only refers to certain years after 2013. (pp. 2-3)
2. PUC § 399.15 gives the Commission the authority to exercise its discretion concerning the 2011-2013 RPS targets as long as the individual year targets average 20%. (pp. 2-3)

III. Compliance Period Targets

The PD states that: (PD, p. 11, footnote 19)

Reid proposes targets of 19% in 2011, 20% in 2012, and 21% in 2013. Although this proposal meets the statutory test of being "equal to an average of 20 percent of retail sales" for the 2011-2013 compliance period, it relies on specific targets for the intervening years, which are not part of the statutory description of this first compliance period.

As explained below, the PD has misinterpreted the statute concerning the term “intervening years.”

New Public Utilities Code Section (PUC §) 399.15(b)(2)(B) states that:

In establishing quantities for the compliance period from January 1, 2011, to December 31, 2013, inclusive, the commission shall require procurement for each retail seller equal to an average of 20 percent of retail sales. For the following compliance periods, the quantities shall reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33 percent of retail sales by December 31, 2020. The commission shall require retail sellers to procure not less than 33 percent of retail sales of electricity products from eligible renewable energy resources in all subsequent years.

It is clear that the first compliance period (2011-2013) has different requirements than the second and third compliance periods; 2014-2016 and 2017-2020, respectively. The second sentence of PUC § 399.15(b)(2)(B) states that “For the following compliance periods, the quantities shall reflect reasonable progress in

each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33 percent of retail sales by December 31, 2020.” Thus, the term “intervening years” only refers to certain years after 2013.

If the legislature had intended to require the Commission to set a goal of 20% RPS procurement for each year from 2011-2013, the statute would have so stated. Instead, the legislature stated that “the commission shall require procurement for each retail seller equal to an average of 20 percent of retail sales.” (PUC § 399.15(b)(2)(B)) In other words, the state legislature has given the Commission the authority to exercise its discretion concerning the 2011-2013 RPS targets as long as the individual year targets average 20%.

Therefore, I recommend that the Commission set targets of 19% in 2011, 20% in 2012, and 21% in 2013.² Since the RPS targets for the years 2014-2020 are a function of the 2013 RPS target, I also recommend that 2014-2020 targets be set at 22.33% in 2014, 23.67% in 2015, 25% in 2016, 27% in 2017, 29% in 2018, 31% in 2019, and 33% in 2020. (Reid Comments, p. 7)³

IV. Minor Errors

The proposed decision states that: (PD, pp. 10-11, footnotes omitted)

The Ruling includes a straw proposal for setting the target for each of the three years in this compliance period as 20% of retail sales. Most parties endorse the straw proposal.

² See Comments of L. Jan Reid on New Procurement Targets and Certain Compliance Requirements for the Renewables Standard Portfolio Program, August 30, 2011 (Reid Comments), pp. 5-7.

³ I did not specifically recommend targets for the years 2017-2020 in my opening comments. Instead, I recommended that a linear trend be used wherever feasible. (Reid Comments, p. 7) My recommendation for the years 2017-2020 was derived using a linear trend.

Most of the parties did not support the straw proposal. There are a total of 136 parties in this proceeding, 24 of whom filed opening comments. The PD lists only 12 parties who support the straw proposal.⁴ It would be more accurate to state that approximately one-half of the active parties support the straw proposal.

V. Conclusion

The Commission should modify the PD as recommended by Reid for the reasons given herein.

* * *

Dated November 17, 2011 at Santa Cruz, California.

/s/

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⁴ See PD, p. 11, footnote 18.

APPENDIX

Proposed Conclusions of Law

~~3. In order to implement the RPS procurement quantity requirement for the compliance period 2011-2013 in a manner most in keeping with the statutory language, there should be no intervening year targets in that compliance period.~~

7. For the compliance period 2011-2013, the RPS procurement quantity requirement of each retail seller should be:

Megawatt-hours of RPS-eligible procurement required = (.19 * 2011 retail sales) + (.20 * 2012 retail sales) + (.21 * 2013 retail sales), where retail sales are expressed in megawatt-hours.

8. For the compliance period 2014-2016, the RPS procurement quantity requirement of each retail seller should be:

Megawatt-hours of RPS-eligible procurement required = ~~(.217~~ .2233 * 2014 retail sales) + ~~(.233~~ .2367 * 2015 retail sales) + (.25 * 2016 retail sales), where retail sales are expressed in megawatt-hours.

VERIFICATION

I, L. Jan Reid, make this verification on my behalf. The statements in the foregoing document are true to the best of my knowledge, except for those matters that are 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.

Dated November 17, 2011, at Santa Cruz, California.

/s/

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