

**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)

**MOTION OF THE CALIFORNIA WIND ENERGY ASSOCIATION REGARDING
2012 RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLANS**

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*On behalf of the California Wind Energy
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I. INTRODUCTION

Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), the California Wind Energy Association (“CalWEA”) respectfully submits this motion asking the Commission to direct Southern California Edison Company, Pacific Gas and Electric Company and San Diego Gas & Electric Company (collectively, “IOUs”) to address in their 2012 Renewables Portfolio Standard (“RPS”) Procurement Plans, among other things, three issues that have arisen in connection with the RPS program: (i) the processes that the IOUs and the Commission use to consider amendments to power purchase agreements (“PPAs”) associated with changes to underlying renewable projects, (ii) the IOUs’ current unduly narrow approach to the evaluation of Resource Adequacy (“RA”) benefits associated with renewable projects, and (iii) the current time-of-delivery (“TOD”) factors used to calculate PPA pricing and evaluate renewable energy projects through the least-cost, best-fit (“LCBF”) analysis performed by the IOUs and the Commission.¹

The good cause basis for each of CalWEA’s requests is set forth below.

¹ In its comments filed on November 21, 2011 in R.11-10-023, CalWEA asked the Commission to address the RA issues referred to above in that proceeding. To the extent that the Commission does address these RA issues in that proceeding, CalWEA does not request that they also be considered in this proceeding.

II. DISCUSSION

A. Revisions to the IOUs' and Commission's Approach to the Evaluation of Material Amendments to PPAs

The IOUs and the Commission currently employ a permissive approach to entering into and evaluating PPA amendments involving changes to underlying renewable projects. This has led to a secondary market in which executed PPAs are bought and sold, often to be used for an entirely separate project, even one employing an entirely different technology. The existence of this secondary market has encouraged speculative bidding, as the signed PPA itself has now become a valuable commodity independent of the underlying project. This speculative bidding harms the renewable energy market, and ultimately ratepayers, because it encourages a "race to the bottom" in which bidders seek only to obtain a PPA, without consideration of whether they will actually be able to deliver on the PPA commitments, because they assume they will be able to amend the PPA later or sell the PPA to a third party. In turn, the subsequent transfers to third parties or PPA amendments delay the actual development of renewable generation and could introduce transaction costs that ultimately increase costs to ratepayers. Meanwhile, developers that offered viable projects that could have been selected in the original solicitation turn their attention elsewhere, or are left without a market for their viable projects.

The size of this secondary PPA market is (and if unchecked, will likely remain) significant. California's high contract failure rates -- 24% on a capacity basis, over 30% based on number of contracts² -- is much higher than in other states. Those rates are very likely to rise: one market analyst projects future contract failure rates of between 22% and 55%, depending on

² CalWEA's calculation is based on the Commission's RPS contract database as of October 2011, referring to proposed new project capacity, comparing approved contracts to capacity of withdrawn and terminated contracts.

the technology.³ This represents significant demand that should be made available for competition through RPS solicitations among the full range of suppliers in the renewable energy market rather than allowing the original (potentially speculative) bidder to restructure its project and PPA or sell its PPA to the highest bidder to be adapted to a different project.

To curb the speculative frenzy, the Commission should encourage the IOUs to enforce the milestone provisions of PPAs in their portfolios, and the Commission should adopt clear principles for the review of proposed PPAs and PPA amendments. In addition, the Commission should clarify the methodology for evaluating pricing in proposed PPAs. Specifically:

- Signed PPAs proposed to the Commission should be evaluated and acted upon in a more expedited fashion to ensure that developers can fulfill the PPAs they have executed. The current lag between PPA execution and Commission approval has led to developers being exposed for expenditures on projects that may not be approved, or being unable to meet the terms that were agreed upon in a different market environment.
- Proposed PPAs should be compared only to other executed PPAs, not bids simply submitted into the RFO process, because executed PPAs provide pricing associated with binding commitments and at-risk credit support. In contrast, bids lack any assurance that the bidder will deliver on the proposed price or timing.
- PPA amendments that do not materially alter the original Least-Cost Best-Fit (“LCBF”) analysis of the project should not require re-evaluation of price relative to current market pricing for executed PPAs or other issues. These types of amendments would include, for example, clarifying contractual language, adding updated Commission-required non-modifiable terms, revisions to the site that do not change the point of interconnection,

³ “North America Renewable Power Advisory,” IHS Emerging Energy Research (July 28, 2011).

change in technology vendor or model (but not technology type), or extensions of milestones for reasons outside of the developer's reasonable control.

- PPA amendments that materially alter the original LCBF analysis of the project (e.g., price increases, changes in technology type, or extensions of milestones for reasons within the developer's reasonable control such as failure to post collateral as required by the CAISO in accordance with the interconnection process, or failure to submit a permit application) should be evaluated closely with a disposition towards rejection by the Commission. Under these circumstances, the developer would be free to compete against the remainder of the renewable energy market through the RPS program's solicitation process for a replacement PPA, which would be reviewed by the Commission on a fresh basis and in relation to then-current market conditions.

While drawing the line between material and non-material impacts to the original LCBF evaluation for a given project is admittedly a difficult exercise, it is nonetheless a necessary exercise because it will allow the Commission to send a clear message to the renewable energy market that developers executing PPAs are expected to deliver in accordance with their commitments. By providing such a clear message, the Commission can deter speculative bidding, improve the quality of projects offered by bidders, and restore confidence in California's renewable energy market.

These issues and CalWEA's proposals should be addressed by the IOUs in their 2012 RPS Procurement Plan filings.

B. Revisions to the Current Approach to the Evaluation of Resource Adequacy

The IOUs' current approach to valuing renewable energy resources assumes that the generator will either have "energy-only" status, and not provide any RA value, or "full capacity"

status, and provide RA value in accordance with the Commission's decisions relating to the calculation of qualifying capacity.⁴ This unduly narrow approach has resulted in a preference among utility buyers for projects that have "full capacity" status and provide some level of RA capacity.⁵

However, a market that requires all resources to obtain "full capacity" status does not provide the most efficient approach to planning the transmission system. To obtain "full capacity" status, a project must elect such status in the California Independent System Operator Corporation ("CAISO") interconnection process (or the IOUs' equivalent distribution-level processes)⁶ and then execute an interconnection agreement that requires additional Delivery Network Upgrades (as defined in the CAISO tariff) to be built. The CAISO currently designs Delivery Network Upgrades to meet extremely rare system conditions — essentially, operating conditions that might arise, literally, once every several thousand years. Thus, the typical result of the market's current de facto requirement to obtain "full capacity" status is over-designed, extremely expensive upgrades that present enormous market-entry barriers to generators (the costs are typically initially funded by the interconnecting generator, subject to refund after achieving commercial operation⁷) and increased costs for utility customers (who ultimately fund such upgrades through the transmission component of rates).

Requiring all resources to obtain "full capacity" status does not provide the most efficient approach to meeting RA procurement obligations either. In some cases, the cost for these upgrades is significantly higher than the cost to obtain an equivalent quantity of RA capacity in

⁴ See D. 11-04-030 at 20-22.

⁵ *Id.*

⁶ See CAISO Tariff Appendix Y Appendix 1§ 3.

⁷ The CAISO is currently considering changes to this policy, which may result in generators paying for network upgrades that they trigger without reimbursement. (See, "Integration of Transmission Planning and Generation Interconnection Procedures," CAISO Straw Proposal, July 21, 2011.) Such a policy would further compound this market entry barrier.

the RA market. To address these circumstances, the Commission should require the IOUs to consider foregoing supply of RA capacity from the renewable generator (i.e., allow it to proceed with "energy-only" status), either through a bid that does not provide any RA capacity, or through a bid in which the developer has packaged RA capacity supplied by a third party with the "energy-only" renewable generator. This approach would allow utilities to meet both RPS and RA procurement obligations in a more efficient manner by substituting low-cost third-party RA capacity for the high-cost transmission upgrades required to provide RA directly from the renewable generator when such upgrade costs exceed the cost of third-party RA supply. To implement this flexibility, the LCBF process should be modified to value expressly and transparently the renewable energy and RA components of a bid on independent bases, including careful Commission oversight of the proposed RA-related terms of the IOUs' RPS solicitation protocols and pro forma RPS PPAs. The LCBF analysis should also factor in the cost of any expected curtailment to generators in the area. This would allow the Commission and the market to evaluate and deliver the least-cost solution to RA and RPS procurement obligations.⁸

These issues and CalWEA's proposals should be addressed by the IOUs in their 2012 RPS Procurement Plan filings.

⁸ Additionally, to facilitate a long-term solution to the high cost of "full capacity" status and to address significant transmission constraints, the Commission and the IOUs should encourage the CAISO to (1) revise the methodology and assumptions used in its interconnection study processes to reflect more reasonable system conditions, and (2) address major transmission constraints in its transmission planning process, where the Federal Energy Regulatory Commission has authorized the CAISO to plan for "policy-driven upgrades" to promote the achievement of state policy goals. Done correctly, we would expect to see such planning produce the type of foundational upgrades that were included in the 2010 Conceptual Transmission Plan developed under the state's Renewable Energy Transmission Initiative (RETI). Taking these two important steps would relieve renewable generators of the financial and transmission-timeline burdens they now face, which in turn would promote greater generator competition and resolve CAISO interconnection queue bottlenecks, while assuring transmission system reliability.

C. Revisions to the Current TOD Factors Used for PPA Pricing and LCBF Analysis

The IOUs' current TOD factors were set without considering the impact of increased penetration of various renewable energy technologies over time. However, as peaking renewable energy penetration increases, the value of incremental power during the peak hours of the day is expected to decrease, as indicated by a recent report from the Lawrence Berkeley National Laboratory.⁹ Thus, as contracted renewable energy resources become operational, the assumptions used to derive the current TOD factors will become increasingly inaccurate for purposes of valuing incremental generation. Failure to reflect this phenomenon in the LCBF analysis performed by the IOUs and the Commission skews the RPS competitive process to the detriment of ratepayers. Given the large volume of renewable energy for which the IOUs have already contracted, the risk of inaccuracy in the current TOD factors, and thus the inaccuracy of the LCBF valuation, is likely significant.

To avoid these adverse effects, the Commission should direct the IOUs to re-evaluate the current TOD factors and propose new TOD factors in the 2012 RPS Procurement Plans as necessary to more appropriately value incremental renewable energy at various times of day as renewable energy penetration increases.

III. CONCLUSION

For the foregoing reasons, CalWEA requests that the Commission grant its motion asking the Commission to direct the IOUs to address in their 2012 RPS Procurement Plans, among other things, the three issues described above that have arisen in connection with the RPS program: (i) the processes that the IOUs and the Commission use to consider amendments to PPAs associated

⁹ Mills, Andrew, Lawrence Berkeley National Laboratory, "Economic Valuation of Solar PV and Flexible Resources at Increasing Penetration Levels", Intersolar North America Conference (July 11, 2011) at 16.

with changes to underlying renewable projects, (ii) the IOUs' current unduly narrow approach to the evaluation of RA benefits associated with renewable projects, and (iii) the current TOD factors used to calculate PPA pricing and evaluate renewable energy projects through the LCBF analysis performed by the IOUs and the Commission.

Dated: December 8, 2011

Respectfully submitted,



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