

**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)

**RESPONSE OF THE INDEPENDENT ENERGY PRODUCERS
ASSOCIATION TO SOUTHERN CALIFORNIA EDISON
COMPANY'S PETITION FOR MODIFICATION OF
DECISION 10-12-048**

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In Decision (D.) 10-12-048, the Commission adopted a Renewables Auction Mechanism (RAM), which was intended, among other things, to reduce the administrative and transactional costs for small renewable projects so that they could make a reasonably cost-effective contribution toward meeting the state's Renewables Portfolio Standard (RPS) goals. In recognition that the costs of network upgrades to the transmission system greatly increase the costs of larger renewable generation facilities, the Commission required the investor-owned utilities (IOUs) to provide information about available transfer capacity at the substation and circuit level, so that "developers, along with IOUs and other stakeholders, [could] decide if it makes sense to interconnect at various locations."¹ The goal of this requirement was to identify locations on the IOUs' distribution systems where new small-scale renewable generation could be sited without incurring significant upgrade costs.

One year after D.10-12-048 was issued, Southern California Edison Company (SCE) seeks to significantly weaken this requirement. In its Petition for Modification of D.10-

¹ D.10-12-048, p. 71.

12-048, SCE argues that this requirement “presents a serious risk to public safety and security.” SCE’s concerns, however, are based on a misreading of both the Commission’s requirements and the relevant statutes and on an unreasonably restrictive view of the public’s right to information. The Independent Energy Producers Association (IEP) responds to SCE’s Petition to point out these errors.

SCE bases its argument on the Homeland Security Act of 2002 and the Critical Infrastructure Act of 2002. SCE hypothesizes that public access to information about where renewable generation could be sited without significant upgrades to the distribution or transmission systems could lead to attacks on major substations, with dire consequences: “Massive power outages caused by an attack on significant substations could disrupt the economy and countless industries, halt transportation, impede emergency services and responders, cause a shortage of food, water and other necessary supplies, and distract from a simultaneous attack elsewhere.”² IEP does not underestimate the potential severity of a terrorist attack on the electric system, but the Commission should not be distracted by rhetorical flourishes from the addressing the actual issues before it. Once the rhetoric is cleared away, there are at least three fundamental flaws in SCE’s argument.

First, the Commission has not required an identification of the specific location of substations. The requirement is to provide “reasonable data” for the transmission and distribution system that will enable developers to site their proposed facilities more efficiently and effectively by gauging the likelihood that their proposed facilities will trigger network upgrades at either the transmission or distribution level. The map that provides this data need not include the specific location of particular substations (and the maps of San Diego Gas &

² Petition, p. 4.

Electric Company (SDG&E) show only the square mile where substations are located³), but it should present sufficient information to allow a developer to determine whether upgrades are likely to be required and then to assess which locations for development are most attractive from a cost and interconnection perspective.

Second, the Federal Energy Regulatory Commission (FERC) has determined that Critical Energy Infrastructure Information (CEII), which may be subject to some measure of confidentiality, does not include the general location of the infrastructure in question. Instead, FERC defined CEII to refer to “specific engineering, vulnerability, or detailed design information about proposed or existing infrastructure that: (1) relates details about the production, generation, transportation, transmission, or distribution of energy; (2) could be useful to a person in planning an attack on critical infrastructure; (3) is exempt from mandatory disclosure under the Freedom of Information Act; and (4) does not simply give the general location of the critical infrastructure.”⁴ Nothing prevents SCE from complying with the Commission’s order and providing information about the distribution or transmission system without revealing “specific engineering vulnerability” that could be useful to a person planning an attack.

Third, information about the location of substations is hardly confidential. Major substations are obvious even to an untrained eye, and many smaller substations have exterior signs that identify them as substations. Unless the wires leading to and from the substation are placed underground, it is difficult if not impossible to conceal the location of substations.

IEP is not privy (as far as it can determine) to the information SCE’s proposed modification seeks to protect, but nothing in SCE’s petition suggests that the Commission’s

³ Res. E-4144, p. 20.

⁴ FERC Order 683 ¶5.

request requires the disclosure of CEII. SCE may choose to interpret the Commission's instructions to include the public release of CEII and to build its argument on that choice, but the Commission is not obliged to accept or respond to SCE's view of its order.

In short, neither D.10-12-048 nor Resolution E-4414 (addressing the implementation advice letters for the RAM program) requires SCE to release detailed maps of the location of sensitive facilities on its transmission and distribution systems. Instead, the Commission's direction is to provide information about the "available capacity at the substation and circuit level" at both distribution and transmission voltages,⁵ so that developers can determine the locations that are least likely to require network upgrades. IEP is confident that SCE, like Pacific Gas and Electric Company and SDG&E, can find a way to comply with the Commission's order without revealing CEII. SCE's petition misconstrues the Commission's order and reargues points that the Commission has already addressed.⁶ For these reasons, the Independent Energy Producers Association respectfully urges the Commission to deny SCE's Petition.

⁵ Res. E-4414, p. 22.

⁶ Res. E-4414, p. 21.

Respectfully submitted this 17th day of January, 2012 at San Francisco, California.

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By /s/ Brian T. Cragg

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VERIFICATION

I am the attorney for the Independent Energy Producers Association in this matter. IEP is absent from the City and County of San Francisco, where my office is located, and under Rule 1.11(d) of the Commission's Rules of Practice and Procedure, I am submitting this verification on behalf of IEP for that reason. I have read the attached "Response of the Independent Energy Producers Association to Southern California Edison Company's Petition for Modification of Decision 10-12-048," dated January 17, 2012. I am informed and believe, and on that ground allege, that the matters stated in this document are true.

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

Executed on this 17th day of January, 2012, at San Francisco, California.

/s/ Brian T. Cragg
Brian T. Cragg