

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 DIVISION OF RATEPAYER ADVOCATES
ON THE JOINT PARTIES' MOTION FOR A RULING DIRECTING THE
CONSIDERATION OF AN ADMINISTRATIVELY DETERMINED
AVOIDED COST PRICING METHODOLOGY FOR THE RENEWABLE FIT
AT A JANUARY 2012 WORKSHOP THAT WOULD BE PART OF THE
RECORD FOR THE DECISION ON THE RENEWABLE FIT**

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January 10, 2012

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I. INTRODUCTION

Pursuant to Administrative Law Judge (ALJ) Regina DeAngelis's notice granting an extension of time for parties to file responses, the Division of Ratepayer Advocates (DRA) submits this response to the Joint Parties'¹ December 19, 2011 motion (the Joint Parties' Motion) requesting pricing workshops on an administratively determined avoided cost pricing methodology for Section 399.20, the Renewable Feed-in Tariff (FiT).

II. BACKGROUND

On December 19, 2011, the Joint Parties filed a Motion in response to ALJ DeAngelis's October 13, 2011 Ruling. The October 13, 2011 Ruling incorporated

¹ The Joint Parties consists of the Center for Energy Efficiency and Renewable Technologies, Ag Power Group LLC, Sustainable Conservation, Agricultural Energy Consumers Association, Green Power Institute, California Wastewater Climate Change Group, California Farm Bureau Federation, Fuel Cell Energy, and FlexEnergy, Inc.

Energy Division's (ED) Renewable FiT Staff Proposal (Staff Proposal) into the record and also permitted parties to comment on each component of the Staff Proposal.² The Joint Parties object to the Renewable FiT pricing mechanism that was part of the October 13, 2011 Staff Proposal. The Joint Parties' Motion argues that the Renewable Auction Mechanism program (RAM) is not an appropriate benchmark to serve as the base price for the Renewable FiT and alleges many legal and factual errors with the ED Staff Proposal pricing mechanism.

III. DISCUSSION & RECOMMENDATION

Although DRA finds merit in several of the legal arguments raised by the Joint Parties' Motion, the Joint Parties' call for additional workshops on a Renewable FiT pricing mechanism is ill-timed and would not add much value to the record at this late stage in the proceeding. After three rounds of comments, parties are well aware of other parties' positions on the pricing mechanism debate. Additionally, ALJ DeAngelis's email sent to the service list on December 12, 2011 stated that a Proposed Decision on the Sec 399.20 Renewable FiT would be released in "the first quarter of 2012" instead of the fourth quarter of 2011.³ Although many legal and factual issues raised in party comments remain unresolved, DRA has little confidence that the Joint Parties' call for additional workshops on pricing will ultimately lead to consensus building among the parties or result in parties settling on a unified pricing mechanism for 399.20, the Renewable FiT. Therefore, DRA recommends that the Joint Parties' motion be denied.

DRA suggests that if the Commission decides to grant the Joint Parties' Motion and schedule additional pricing workshops, the Commission do so only with implementation of the following modifications.

²*Administrative Law Judge's Ruling (1) Issuing Staff Proposal (2) Entering Staff Proposal and Other Documents into the Record and (3) Setting Comment Dates*, dated October 13, 2011, p. 2.

³ Email from Regina DeAngelis to R.11-05-005, titled R11-05-005 (RPS) Section 399.20 FIT Program, dated December 12, 2011.

A. The Joint Parties' Pricing Methodology Should Not Serve as the Starting Point for Renewable FiT Pricing Discussions

DRA recommends that if the Commission elects to move forward with additional workshops on the pricing mechanism for the Section 399.20, the Renewable FiT, the Joint Parties' Pricing Methodology as described in detail in Appendix A of their Motion **should not** be used as the starting point for pricing discussions. In previous rounds of comments Parties have identified legal flaws with many of the assumptions used in the Joint Parties' proposed pricing methodology. For example, multiple parties have debated using the market price referent (MPR) as the pricing mechanism for the Renewable FiT claiming that the MPR does not represent a true avoided cost. In addition, the Joint Parties' proposed price adders (avoided transmission and distribution investment, and environmental/health related adders, among others) have not yet been vetted by parties. Since many of the assumptions used in the Joint Parties' proposal are as contentious as those in the ED Staff Proposal, the Joint Parties' pricing methodology should not serve as a base for further pricing discussions for the Renewable FiT tariff rate. Instead, all pricing mechanisms in the record that have been proposed by parties to date should be explored and given equal weight and consideration.

B. All Cost and Value-Based Pricing Mechanism Options Should be Discussed at the Workshops

If the Commission grants the Joint Parties' call for additional pricing workshops then, as stated above, the various pricing mechanisms proposed by parties should be given equal weight and consideration. Discussion of only one additional pricing mechanism proposal, especially a proposal that has not yet been incorporated into the record of this proceeding, would defeat the purpose of workshops and consensus building. Instead, all of the pricing mechanisms for the Renewable FiT that have been put forth by parties should be discussed. This includes both cost and value-based proposals such as DRA's Net Surplus Compensation Rate (NSC) Rate, Southern California Edison Company's (SCE) Market Price (MP) FiT, as well the MPR proposal,

MPR plus Adders, Technology Specific Price Methodology, and Market Price proposal per the results of the RAM auctions.

C. A Discussion of a Price Adjustment Mechanism Needs to be Included in the Workshop Agenda

DRA strongly recommends that a discussion and resolution on a price adjustment mechanism for the Renewable FiT occur at any additional workshops on pricing. A logical place to start discussions would be with parties' price adjustment mechanisms summarized on pages 12 to 14 of the ED Staff Proposal. These price adjustment mechanisms include:

- Adjustment of the Renewable FiT price upward/downward after the results of the most recent MPR calculation;
- Adjustment of the Renewable FiT price upward/downward after the results of the most recent RAM auction;
- Adjustment of the price downward based on a capacity trigger similar to that used in the California Solar Initiative (CSI) program;
- CalSEIA's 10% reduction that takes place over five quarters;
- SCE's Market Price adjustment based on program subscription;
- Vote Solar's upward price adjustment proposal to stimulate market interest; and
- Clean Coalition's digression adjustment price mechanism based on the 2009 MPR.

DRA agrees with the ED Staff Proposal that a price adjustment mechanism should be included as a component of any pricing mechanism adopted for the Renewable FiT as this will ensure compliance with the market price component of Section 399.20(d)(1).

IV. CONCLUSION

DRA recommends that the Commission deny the Joint Parties' Motion requesting pricing workshops. Should the Commission elect to move forward with the Joint Parties'

request for Section 399.20 Renewable FiT pricing workshops, the Commission should do so only with DRA's recommended modifications.

Respectfully submitted,

/s/ MATT MILEY

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VERIFICATION

I, Matt Miley, am an attorney for the Division of Ratepayer Advocates which is a party herein, and am authorized to make this verification on DRA's behalf. 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 are true and correct.

Executed on January 10, 2012 at San Francisco, California.

/s/ MATT MILEY

Matt Miley
Staff Counsel