

**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.

R. 11-05-005
(Filed May 5, 2011)

OPENING COMMENTS OF RECURRENT ENERGY

on

**Administrative Law Judge's Ruling Requesting Comments on Procurement
Expenditure Limitations for the Renewables Portfolio Standard Program**

February 16, 2012

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Recurrent Energy respectfully submits these brief opening comments in response to ALJ Simon's January 24, 2012, *Ruling Requesting Comments on Procurement Expenditure Limitations for the Renewables Portfolio Standard Program* (the "Ruling").

Introduction

Recurrent Energy (the "Recurrent") is a solar developer headquartered in San Francisco. We develop, own, and operate distributed solar projects, with most of our recent projects ranging in size from 5-20 MW and more. We have projects in development in all major North American markets and the company is active in emerging markets globally, with over 500 MW of solar projects operating, in construction, or under contract, and some 2 GW overall in our development pipeline (mostly ground-mounted systems from 20-200 MW). We have competed in California utility RPS solicitations for large projects; in the first RAM auction for projects up to 20 MW; and in utility PV programs for projects ranging from 1-20 MW. Since 2008, we have also participated extensively in Commission rulemakings to help shape these programs.

Among other affiliations, Recurrent Energy is one of about a dozen current members of the Large-scale Solar Association (the "LSA"), which will also be filing comments in this proceeding on procurement expenditure limitations prescribed by Senate Bill 2 (the "SBx1-2"). Individual LSA member companies work with a variety of proven and emerging solar technologies, across a wide range of project sizes and business models, not only in California but also throughout the U.S. and around the world. LSA members share a common interest in supporting markets for large-scale solar, as well as common concerns on issues facing solar development. At the same time, individual companies face different development challenges that shape their experience, their views, and their priorities in addressing particular issues. Accordingly, Recurrent Energy will often concur generally in the views expressed in LSA's filings in this proceeding, but may also submit separate or joint comments to highlight selected issues that we believe are especially important, or to offer a distinct perspective based on our own development experience, as we do in the brief comments that follow.

The January 24 Ruling requests comments on a complex set of issues which the Commission and the parties are just beginning to explore, so these comments represent our preliminary thoughts on several key questions and bulleted sub-questions identified below, subject to refinement as the record develops.

Question 2: What types of procurement should be included in determining the costs of all procurement credited toward achieving the renewables portfolio standard—subject to the expenditure limitation, and what special rules or methods may be required to account for the costs?

- ***Sub-questions:*** Should the costs of all procurement credited toward achieving the renewable portfolio standard be interpreted as including *estimates* of costs to be incurred made at the time the Commission approves a procurement contract, or *actual expenditures* the utility makes under the contract, and *over what period of time* should costs be considered under either approach?

Answer: Recurrent Energy agrees with LSA and others that there will likely be a need to consider both forward-looking cost estimates available at the time of Commission approval, and records of actual expenditures made as contracts are implemented. As an informational matter, cost estimates may help the Commission monitor movement toward any overall procurement expenditure limit as the utilities periodically submit procurement contracts for approval. However, in eventually determining compliance with any such limit, actual expenditures are the only relevant measure. Whether considering estimated costs or costs actually incurred, expenditures should be accounted for on a scheduled basis, no more frequently than once per compliance period (i.e., for the periods ending in 2013, 2016 and 2020).

- **Sub-question:** How should the procurement expenditure limitation methodology address RPS procurement costs incurred prior to its implementation?

Answer: RPS markets succeed best when regulator's actions and processes remain as predictable as possible notwithstanding the Legislature's prerogative to respond to changing conditions. Recurrent Energy believes that certainty will be enhanced by defining a bright line that enables stakeholders to know in advance which procurement contracts and costs will count toward the expenditure limit and which will not. We stand ready to work with the Commission and the parties to determine where along the RPS procurement continuum that line should be drawn.

We believe that any cost containment methodology developed pursuant to SBx1 2 must not reopen contracts that the Commission has already approved under prior law and regulations that utilities, renewables providers, and their investors complied with in good faith, including approvals based on the previous MPR regime.

Question 14: How should the procurement expenditure limitation be applied to the Commission's evaluation of individual RPS contracts?

Answer: Within the existing renewable procurement process, the Commission (as well as the utilities, PRGs, and independent evaluators) have multiple opportunities to evaluate individual renewable contracts in relation to cost containment (e.g., MPR and SEP, LCBF, or competitive benchmarks), as well as in relation to project and developer viability, schedules and milestones, needed upgrades, grid integration, and other factors affecting successful implementation. Recurrent Energy does not understand that SBx1 2 would change this, and expects that the Commission will continue to exercise its authority to consider all aspects of procurement contracts before they are approved.. We understand that the Commission may need to coordinate its review of procurement contracts with an overall expenditure limitation, and we are open to considering the approaches that parties or staff may propose going forward.

Conclusion

Recurrent Energy appreciates the opportunity to submit these preliminary comments in addition to those submitted by LSA and others, and we look forward to contributing to the design of a workable procurement expenditure limitation methodology as this effort continues. We would like to reserve the opportunity to expand on these comments and respond to other parties' input in our reply comments. In the meantime, we are grateful for the efforts of ALJ Simon and the Commission address the challenges presented by the expansion of California's RPS legislation.

Dated: February 16, 2012

Respectfully submitted,

/s/ John Nimmons
Counsel for Recurrent Energy

VERIFICATION

I am the attorney for Recurrent Energy in this proceeding. Recurrent Energy is not located in the County of Marin, California, where I have my office, so I make this verification for that reason.

The foregoing:

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has been prepared and read by me and its contents are true of my own knowledge and based on information furnished by my client which I am informed and believe to be true. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 16, 2012, at Mill Valley, California.

/s/ John Nimmons
Counsel for Recurrent Energy