

**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)

**COMMENTS OF MARIN ENERGY AUTHORITY ON
RENEWABLES PORTFOLIO STANDARD PROGRAM
PROCUREMENT EXPENDITURE LIMITATIONS**

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I. INTRODUCTION AND SUMMARY

In accordance with the schedule contained in the Administrative Law Judge’s Ruling Requesting Comments on Procurement Expenditure Limitations for the Renewables Portfolio Standard Program, dated January 24, 2012 (“January 24 Ruling”), the Marin Energy Authority (“MEA”) respectfully submits to the California Public Utilities Commission (“Commission”) the following comments on the January 24 Ruling. While MEA does not comment on the specific procurement expenditure limitations questions set forth therein, MEA notes that electrical corporations and other load serving entities are subject to different standards under the new Renewables Portfolio Standard (“RPS”) rules as set forth in Senate Bill (“SB”) 2 (1x) (2011). As a result, MEA requests that the Commission acknowledge the potential impacts of this disparate treatment, and agree to evaluate solutions in a future phase of the proceeding.

II. DISPARATE TREATMENT UNDER THE NEW RPS FRAMEWORK SHOULD BE ADDRESSED AND REMEDIED

MEA notes that Public Utilities Code (“P.U. Code”) Section 399.15(c) applies only to investor-owned utilities (“IOUs”). This provision provides that the Commission “shall establish

a limitation for each electrical corporation on the procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard.” As a result, this provision is not applicable to non-investor-owned utilities, such as community choice aggregators and direct access providers. The question this raises is: if other load-serving entities that are not electrical corporations (“Other LSEs”) are required to comply with the RPS without the same “off ramp” provided to the electrical corporations by P.U. Code Section 399.15, how should the Commission ensure that the electrical corporations and the Other LSEs (a) are treated fairly, (b) have access to a level playing field with regard to procurement costs, and (c) have the same incentives to maximize renewable procurement?

For the “off ramp” set forth in P.U. Code Section 399.15 to apply, by definition, RPS costs would exceed the costs of brown power. And since the “off ramp” applies unevenly to electrical corporations and Other LSEs, there could be an incentive for electrical corporations to request the “off ramp” as a mechanism to suppress procurement costs in certain competitive and/or market scenarios. In such instances, the Other LSEs, *i.e.* the electrical corporations’ competitors, would continue to be required to pay for the RPS costs necessary to comply, but the electrical corporations would not face such costs. As a result, the cost of power for bundled service customers would be artificially lower than that for customers of Other LSEs who would enjoy no such off ramp. This in turn would reduce the incentives for Other LSEs to maximize their respective RPS procurement efforts.

In the case of MEA, its internally established renewable energy procurement target for 2012 is 27% RPS-compliant energy; beyond this target, MEA will procure additional renewable energy products for its customers, delivering a total of 50% renewable content as part of its basic retail energy product. For 2011, preliminary calculations indicate that MEA delivered more than

27% RPS-compliant energy as part of its total energy mix. These MEA targets are well in excess of the 20% (average) RPS target for the 2011-2013 compliance period. MEA believes that parties should be encouraged not only to meet the RPS, but also to exceed the standards set forth therein. However, the disparate application of the cost off ramp discourages achievement of this societally beneficial goal.

Consequently, two questions must be addressed by the Commission going forward:

- 1) How should the Commission encourage increased RPS procurement? and*
- 2) How should the Commission ensure a competitively neutral policy for the RPS “off ramp”?*

With regards to the first question, MEA is confident that the parties to this proceeding and the Commission will arrive at a position that favors the maximization of RPS procurement. MEA urges the Commission to effect policy that will favor the achievement of RPS procurement mandates by electrical corporations rather than the avoidance of these obligations through the expenditure limitation mechanism.

With regards to the second question, MEA requests that the issue of competitive neutrality be addressed in a future phase of this proceeding.

III. CONCLUSION

MEA thanks the Commission, Assigned Administrative Law Judge Simon and Assigned Commissioner Ferron for their consideration of these comments.

Respectfully submitted,

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