

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 THE CITY AND COUNTY OF SAN FRANCISCO
ON PROCUREMENT EXPENDITURE
LIMITATIONS FOR THE RENEWABLES PORTFOLIO STANDARD
PROGRAM**

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In accordance with Judge Simon's ruling dated January 24, 2012, the City and County of San Francisco (CCSF or City) respectfully files these comments on procurement expenditure limitations for the Renewables Portfolio Standard (RPS) program. The January 24 Ruling provides "[i]t is anticipated that Energy Division staff will put forward a proposal for a procurement expenditure limitation methodology on which parties may submit comments and participate in a workshop, if indicated." Id., at 3. The City strongly supports the approach of having Energy Division staff prepare a proposal, such that the input of parties with limited resources can be much more focused and effective. The City provides these comments to help inform the Energy Division staff proposal. The City's comments address matters which are not addressed by Judge Simon's questions but must be considered in the adoption of procurement expenditure limitations.¹

The City's comments are summarized below:

¹ The City reserves the right to respond to the opening comments of other parties, including any responses to Judge Simon's detailed questions.

- Creation of a workable procurement expenditure limitation is a complex matter that will benefit from an Energy Division proposal, workshops and sufficient opportunities for discussion and comment. The City strongly supports such a process.
- In developing a procurement expenditure limitation, the Commission should consider three elements that are not addressed in the ruling’s questions: 1) any limitation must be designed to avoid ”disproportionate rate impacts;” 2) any limitation should encourage the Investor Owned Utilities (IOUs) to procure renewables cost-effectively, and should work in concert with effective regulation to ensure IOU procurement costs that are reasonable and prudent; 3) any limitation must ensure the IOUs are not given an undue advantage over their competitors, including community choice aggregators (CCAs).
- The primary objective of the procurement expenditure limitation is to avoid “disproportionate rate impacts,” that is, excessive rate increases for IOU customers. What constitutes a “disproportionate rate impact” must be defined up front, and from there, a procurement expenditure limitation should be developed to achieve that objective.
- Without more transparent and effective regulation of IOU procurement, including procurement to achieve the requirements of the RPS, ratepayers are likely to see a steady escalation in procurement costs and the objectives of the RPS legislation will not be achieved.
- An RPS procurement expenditure limitation should be based on market prices, as opposed to IOU procurement costs, where possible. Relief from RPS requirements is appropriate if RPS procurement is on-target, prudent and reasonable, but market conditions would result in disproportionate rate impacts for customers.

- In developing and implementing the procurement expenditure limitation, the Commission should provide incentives – both rewards and penalties – to the IOUs to make cost-effective procurement choices. Simply allowing the IOUs to escape RPS requirements when they spend excessively on RPS renewables (including IOU-owned resources) rewards IOUs for imprudent purchases, and may give them a competitive advantage over other retail sellers, including CCAs.
- In implementing a procurement expenditure limitation, the Commission should seek to create, to the largest extent possible, a level playing field between other retail sellers and the IOUs. To the extent that market conditions create undue cost burdens, all retail sellers should be afforded relief.

I. CREATION OF A RESPONSIBLE PROCUREMENT EXPENDITURE LIMITATION IS COMPLEX

It will be a complex undertaking for the Commission to develop and implement a responsible procurement expenditure limitation. A well-designed procurement expenditure limitation should 1) define upfront what qualifies as a "disproportionate rate impact"; 2) give the IOUs incentives to procure renewables cost-effectively; and 3) avoid giving the IOUs additional and unfair competitive advantages over other retail sellers.

In this context, the City strongly supports the approach set forth in the January 24 Ruling of having the Energy Division develop a proposal, with the input from this initial round of comments. Moreover, the City considers that at least one workshop, and possibly more workshops, will be needed to vet the issues. The City urges the Commission to ensure there is an adequately robust process so that legitimate issues can be addressed, and adverse unintended consequences can be avoided.

II. DEFINING WHAT CONSTITUTES A "DISPROPORTIONATE RATE IMPACT" IS A THRESHOLD ISSUE

SB2 (1X) directs the Commission to set a procurement expenditure limitation at a level that “prevents disproportionate rate impacts.” Section 399.15(d)(1). Thus, a threshold question is what constitutes a “disproportionate rate impact”, including which rates or rate components are to be considered, and acceptable levels and duration of rate changes. The questions in the January 24th ruling do not address this fundamental issue and instead focus primarily on the mechanics of putting into place some kind of cost cap. While the questions recognize that cost cap development will require careful definition of what the cap represents, the questions do not address what the cost cap should be designed to achieve – avoiding excessive rate increases for ratepayers.

III. A COST CONTAINMENT MECHANISM MUST BE ACCOMPANIED BY MORE TRANSPARENT AND EFFECTIVE REGULATION OF IOU PROCUREMENT

In accordance with Senate Bill 836 (Padilla, 2011)(SB 836), the Commission's Renewables Portfolio Standard, 4th quarterly report for 2011(2011 RPS 4th quarterly report), sets forth IOU RPS procurement cost information. The issuance of the RPS 2011 4th quarterly report is notable because it marks the first time IOU RPS procurement costs have been made publicly available. Moreover, the report demonstrates that effective and transparent regulation is a necessary element for any cost containment effort.

The report indicates that "[f]rom 2003 to 2011, [approved RPS] contract costs have increased from 5.4 cents to 13.3 cents per kWh." These figures set forth cost trends, but are not complete, and could easily understate the costs associated with the RPS. Notably, these figures do not appear to include the cost of IOU-owned generation (UOG), although UOG Solar PV projects have been approved by the Commission. See 2011 RPS 4th quarterly report, Attachment

A at 1 ("[s]ince the CPUC does approve UOG contracts, no contract cost is provided in the following tables"). The delivered cost of PG&E's UOG Solar in 2010 and 2011 ranges from \$0.18/kWh to \$0.27/kWh. Id. at 4. This information suggests that if RPS UOG costs are considered, the increase in approved RPS costs since 2003 would be even higher. Further, the cost data provided in the RPS 2011 4th quarterly report do not reflect the significant increase in transmission costs over the same period. For example, since 2003, transmission costs in the PG&E service area have tripled, and if projects that have already been approved are added, by 2017, transmission costs are likely to be nearly six times the 2003 rates.²

The 2011 RPS 4th quarterly report provides some rationale for the more than doubling of renewables costs in less than ten years,³ and suggests that with the industry maturing, costs should moderate going forward. Nonetheless, the extreme increase in costs, particularly when the cost of transmission is considered, illustrates that the opaque and fragmented system for regulating IOU procurement and transmission upgrades that has existed in the past decade does not adequately protect ratepayers. For example, the process for Commission approval of individual contracts and UOG projects does not allow for full and effective stakeholder review and participation, and does not provide for consideration of full transmission and portfolio integration costs. This process also does not facilitate an analysis of whether, taken together, the costs of RPS procurement will be reasonable and prudent. Even as it develops a procurement expenditure limitation as a safety-valve, the Commission should review the entire procurement

² According to the CPUC Evaluation Metric calculator projections for HV TAC and Flynn RCI projections for LV TAC based on the PG&E 2010 Expansion plan, annual combined HV and LV TAC increased from \$3.83/MWh in 2003 to \$11.80/MWh in 2012 and are expected to rise to \$22.05/MWh in 2017.

³ "One important reason for this this increase is that the IOUs contracted with existing renewable facilities at the beginning of the RPS program and with mostly new facilities in later years. In order to meet the ambitious 20% and 33% RPS targets, the IOUs have to contract with new facilities, which require higher contract costs to recover the capital needed to develop a new facility. Other reasons for the contract cost increase include changes in technology mix, increases in commodity costs, and demand exceeding supply. In addition the cost numbers in this report are nominal and not adjusted for inflation." 2011 RPS 4th quarterly report at 10.

process to provide for more effective, integrated, and transparent regulation and to stem the large increases in costs for both renewables themselves and the transmission projects to support them.

IV. IOUS MUST HAVE INCENTIVES TO MODERATE RPS PROCUREMENT COSTS

Even with more effective and transparent regulation, the law requires that the Commission put into place a procurement expenditure limitation. However, this limitation should not be a simplistic cost-cap that allows the IOUs to escape complying with the RPS with no cost to the IOU shareholders irrespective of whether or not IOU procurement has been prudent. A pain-free safety valve for the IOUs could just exacerbate the existing trend of increasing RPS contract and UOG costs. Thus, in designing the procurement expenditure limitation, the Commission should seek to put into place incentives for cost-effective procurement, and some shareholder consequences for escalating procurement costs. The Commission should put into place adequate incentives (and regulatory oversight) for the IOUs to develop and implement the most cost-effective strategies to achieve compliance with the RPS.

V. A PROCUREMENT EXPENDITURE LIMITATION SHOULD NOT DISADVANTAGE IOU COMPETITORS

As it devises a procurement expenditure limitation, the Commission should seek to even the playing field between IOUs and their competitors, including CCAs. Simply allowing IOUs to escape RPS requirements if they fail to pursue a cost-effective RPS procurement strategy would give IOUs another important and unfair competitive advantage over CCAs. (IOUs can already impose above-market RPS costs on departing load for the life of a contract.)

Thus, in developing a procurement expenditure limitation, the Commission should consider market costs, rather than focusing exclusively on IOU procurement costs. A limitation that acts as a safety valve is appropriate if IOU RPS procurement is on-target, prudent and reasonable, but prevailing market prices for RPS procurement result in disproportionate rate

impacts. However, if market conditions support excusing IOUs from complying with RPS requirements, CCAs should be afforded similar relief. This would be similar to prior Commission decisions on RPS compliance, which affords all retail sellers equal use of flexible compliance mechanisms. See D.05-11-025 at 26. Conversely, IOUs should not be excused from complying with RPS requirements, with no consequence to their shareholders, if excessive RPS costs are not driven by market prices, but are driven instead by a poor procurement strategy. While ratepayers should be protected from excessive RPS costs in all circumstances, IOUs should be accountable if the excessive costs are not driven by market prices.

Dated: February 16, 2012

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VERIFICATION

I am an employee of the City and County of San Francisco, Public Utilities Commission, a city and county, and am authorized to make this verification on its behalf. I have read the **COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO ON PROCUREMENT EXPENDITURE LIMITATIONS FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM** dated February 16, 2012.

The factual statements in this document are true to the best of my own knowledge, information or belief. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 16th of February, 2012 at San Francisco, California.

/s/

Margaret Meal

Manager of Regulatory and Legislative Affairs, Power Enterprise
San Francisco Public Utilities Commission