

**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)

**REPLY COMMENTS OF TENASKA SOLAR VENTURES
ON THE ASSIGNED COMMISSIONER'S RULING**

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I. INTRODUCTION

Tenaska Solar Ventures (“Tenaska”) submits these Reply Comments pursuant to the April 5, 2012 Assigned Commissioner’s Ruling (“ACR”) in response to parties’ comments on the ACR’s seven proposals to revise the Renewable Portfolio Standard (“RPS”) solicitation rules. Tenaska’s Reply Comments, like its Opening Comments, focus on provisions that facilitate the identification of the respective costs and benefits of a set of renewables projects in a manner that will ensure cost effective and transparent procurement. Tenaska emphasizes the importance of four issues in these Reply Comments.

- Parties fail to suggest a superior proposal to the Commission’s suggested use of the California Independent System Operator (“CAISO”) transmission cost study estimates in least-cost, best-fit (“LCBF”) evaluations.
- The Commission’s two-shortlist proposal will add much needed transparency and cost certainty to the solicitation process, and various parties’ criticisms of the proposal miss the mark.
- The Commission should approve the proposal to create a 12-month expiration date for short lists; the utilities’ opposition to this proposal ignores its value in balancing risks versus incentives.
- Despite the utilities’ support, the Commission should not approve a two-year (or longer) renewable procurement planning process.

- The Commission should revise its proposal to utilize its RPS procurement process to minimize transmission costs. Instead of power purchase agreements (“PPAs”), it should use the CAISO Large Generator Interconnection Agreements (“LGIAs”) to determine the MW caps necessary to avoid expensive deliverability network upgrades (“DNU”) because LGIAs are the best measure of transmission scarcity.
- Any Commission action regarding the Imperial Irrigation District (“IID”) must not have an adverse impact on transmission capacity from existing and planned projects that have completed or will soon complete CAISO Phase II transmission studies in that area.

Following these recommendations will improve and streamline the process whereby the IOUs identify and procure new RPS resources that are both viable and comport with least-cost best-fit (“LCBF”) valuation.

II. REPLY COMMENTS ON THE PROPOSALS

A. Parties Fail to Recommend a Superior Proposal to the Commission’s Suggested Use of CAISO Transmission Cost Study Estimates in LCBF Evaluations.

Those parties that express opposition to the ACR’s proposal to use CAISO transmission cost study estimates in LCBF evaluations fail to identify compelling rationale as to why the ACR’s proposal should not be implemented and fail to make adequate alternative proposals to solve the uncertainty that the ACR is attempting to address. For example, SDG&E states that Transmission Ranking Cost Reports (“TRCRs”) are “of questionable value” but then proposes to use the TRCR data for initial project evaluation, and would only use the CAISO data until it has established a shortlist.¹ The Commission’s proposal is superior, because it would require SDG&E to use the more accurate CAISO data unless it was unavailable. By way of another example, Capital Power suggests that the Commission allow the IOUs to use any available

¹ SDG&E RPS Plan, at 30.

transmission cost data so long as the methodology is transparent.² However, transparency does not, and should not be allowed to, substitute for accuracy. It makes little sense to use inferior data to determine a bid's value to ratepayers. For these reasons, the comments on this issue of both Capital Power and SDG&E should be disregarded.

Tenaska, by contrast, has proposed supplementing the proposal set forth in the ACR in a manner that would solidify the proper consideration of transmission costs in connection with the cost-effective procurement of renewables. To ensure an accurate assessment of the costs that a project will impose on ratepayers, the Commission should require the use of CAISO data when it is available. Further, the Commission should adopt PG&E's proposal to require the completion of Phase I studies,³ which will guarantee that CAISO data is available for analysis in LCBF evaluations as frequently as possible. Finally, the Commission should adopt the SCE proposal to attribute ratepayer costs to projects that will benefit from transmission upgrades built through the CAISO Transmission Planning Process ("TPP").⁴ Assigning these costs to the projects that will benefit from the upgrades will result in a more accurate representation of a project's total cost to ratepayers, thereby ensuring the most transparent and cost-effective procurement possible.

B. The Commission's Two Shortlists Proposal Will Add Needed Transparency and Cost Certainty to the Solicitation Process.

Tenaska demonstrates in its opening comments that the ACR's proposal to establish two shortlists will improve the accuracy of cost-benefit analyses, will allow those analyses to be performed earlier in the solicitation, and will act as a useful lever to eject speculative projects from utility solicitations. Accordingly, this proposal will help ensure that only legitimate and

² Capital Power Comments, at 4.

³ PG&E RPS Plan, at 71.

⁴ SCE Comments, at 6.

credible projects from responsible and committed developers proceed through the RPS procurement process.

The opposition to this proposal, especially by PG&E and SCE, misses the mark. As Tenaska noted in its initial Comments, SCE's counter-proposal fails to provide the level of certainty regarding costs and ratepayer value that the Commission's proposal provides.⁵ The transparency and timing of the Commission's proposal is simply superior to SCE's proposal, which would continue to allow large swings in upgrade costs between Phases I and II, such that final upgrade costs would not be known until late in the solicitation process.

PG&E expresses concern regarding a loss of "flexibility" to procure quick-strike projects.⁶ However, quick-strike projects with hidden transmission and other ratepayer costs that have not been sufficiently studied are precisely the sort of projects that the ACR aims to avoid, and that as a matter of policy, the Commission should actively discourage. Moreover, PG&E fails to demonstrate how this loss of flexibility outweighs the benefits that the two shortlist approach would provide.

The comments of CalWEA and Zephyr on this point are also of doubtful utility. CalWEA complains that the negotiation process could be impeded for projects on the Primary List when a higher-ranked project on the Provisional List obtains a completed Phase II study.⁷ CalWEA's concern appears to be that the higher-ranked project would beat out the lower-ranked project once the higher-ranked project completes its Phase II study. However, such a result (which CalWEA apparently seeks to avoid) is precisely what the Commission should be aiming for: a more cost-effective project, with known transmission upgrade costs, should be procured

⁵ SCE Comments, at 7.

⁶ PG&E RPS Plan, at 73.

⁷ CalWEA Comments, at 6.

before an inferior project. Finally, Zephyr's comments entirely miss the mark; projects with the “lowest cost of delivered power” will *necessarily* have to include a rational estimate of transmission costs, something that Zephyr apparently wishes to ignore.⁸

C. The Commission Should Approve the Proposal to Create a 12-Month Expiration Date for Short Lists.

As Tenaska noted in its earlier Comments, it is to be expected that prices for renewable energy projects will change over the course of time. Under the Commission’s proposed reform, if a project that has completed its CAISO Phase II study and is on a shortlist for its energy output to be procured by an IOU, both the IOU and the developer should enter into good faith contract negotiations and strive to complete them within a year.

PG&E and SCE oppose this important reform, for the ostensible reason that it would reduce an IOU’s flexibility or that it would create unnecessary complexity.⁹ However, PG&E and SCE overlook the fact that this reform will help prevent developers’ bid prices from becoming stale and can provide heightened certainty for the IOUs, developers and ratepayers. As Tenaska previously commented, the establishment of a shortlist with a 12-month duration is a reasonable balance between the risk that prices will change and the incentives for the counterparties to delay, based on their respective perception of the direction in which the market is headed.

However, as Tenaska also pointed out, in order to avoid the potential for delay based on perceptions (accurate or not) of where the market may be heading, the Commission needs to clarify this proposed reform to make it abundantly clear to the IOUs, and successful bidders in

⁸ Zephyr Comments, at Section II.B. (Zephyr did not paginate its comments).

⁹ PG&E RPS Plan, at 68-69; SCE Comments, at 9.

RPS procurement solicitations, that it expects all counterparties to negotiations leading to PPAs to negotiate in good faith for the full 12-month period.

D. Despite the Utilities' Support, the Commission Should Not Approve a Two-Year (or Longer) Renewable Procurement Planning Process.

Tenaska does not support the proposal for two-year procurement authorization, which all three of the IOUs support on the grounds that it would enhance the efficiency of their procurement processes. However, the utilities' support for this proposal ignores that fact that not all projects that submit winning bids into the IOUs' RPS procurement solicitations are viable, and extending the procurement cycle to two years would breathe unnecessary additional life into such unviable projects while viable projects incur carrying costs. It is axiomatic that prices for renewable energy projects will change over the course of time, and stretching the RPS procurement cycle over a period of two years or longer will only contribute to greater price uncertainty, to the significant potential detriment of ratepayers.

Tenaska again points out that this proposed reform seems to be at odds with the proposed reform calling for the expiration of shortlists after 12 months. If the RPS procurement cycle is two years or longer, there will be a 12-month shortlist only once every two years. The Commission already acknowledges the fact that a significant number of the entities that have successfully negotiated PPAs with the IOUs are unlikely to be able to develop their projects and has taken this fact into account in its projections of the amount of renewable energy resources that the IOUs need to procure. A two-year RPS procurement cycle will definitely exacerbate the problem of over-shooting the mark and is likely to provide a perverse incentive to the IOUs to sign up even more unviable projects, thereby putting the Commission's laudable goal of seeking to meet the 33% RPS by 2020 at greater risk than it needs to be.

E. Executed Large Generation Interconnection Agreements Should Be Used to Establish MW Caps to Avoid Expensive Deliverability Network Upgrades.

There are two fundamental problems that have led to high DNU costs: specious projects and scarce transmission capacity. Tenaska's Opening Comments propose a solution that will effectively address both of these key issues: highest priority in the renewable project procurement process should be given to projects with executed CAISO LGIAs, as this criterion is the best gauge of available transmission capacity and a project's associated transmission costs, and the existence of which results in higher project viability.

In the evaluation of whether a given project will or will not require significant delivery network upgrades, the Commission should look to the most factual and certain criterion for gauging the likelihood of project success: the existence of an executed LGIA for the proposed project. The high failure rate of executed PPAs has proven that the mere existence of such contracts is an inaccurate gauge of project viability. A project is much more likely to be successful if it has made the substantial financial commitment necessary to undergo the required CAISO interconnection studies and, as well, to have completed the complex negotiations that precede the execution of an LGIA, than if it has only executed a PPA. Moreover, the actual costs of interconnecting projects that already have executed LGIAs are, by definition, more certain than the costs of interconnecting projects that do not have them.

Moreover, LGIAs directly join the problem of scarce transmission capacity to the proposed solution of ensuring that interconnecting projects will not include substantial DNUs. The availability of transmission system capacity is the key criterion to avoid costly upgrades; therefore, any Commission-imposed limits on the scope of projects that an IOU proposed to rely on in order to meet its RPS obligations should be based on a transmission-system-related criterion (*i.e.*, the existence of executed LGIAs) and not on an uncorrelated commercial criterion

(i.e., total MWs of projects with PPAs). An executed LGIA demonstrates that the project in question will have access to, or will build, the facilities necessary to fully deliver the energy that the project is designed to provide. By contrast, the mere existence of an executed PPA provides no comparable certainty.

CalWEA and TransWest Express's opposition to the administrative nature of the Commission's proposal is unfounded. Both organizations appeal to market competition as a cure for costly DNU's, but the interconnection study process is necessarily administrative.¹⁰ Any project seeking to interconnect to the CAISO grid must go through the Generator Interconnection Process (GIP) and be studied for its impacts to the grid. There is no way for such studies to be performed on a competitive basis. Further, reliance on competition in the interconnection arena in the past has resulted in unacceptably long study queues at the CAISO, a high contract failure rate in the RPS program, and the payment of hidden transmission costs by ratepayers. Competitive forces are the cause of, not the solution for, the problem of high DNU costs.

Tenaska also disagrees with TransWest and CalWEA's claims that the proposal will result in the Commission choosing "winners and losers."¹¹ The only factor that will determine winners and losers under the ACR's proposal is project siting, an attribute that is entirely under the project's control. Legitimate projects that have taken the time and spent the money to responsibly and strategically locate their projects to reduce ratepayer costs should be rewarded for such efforts since the Commission's objective is lower costs for ratepayers. The Commission's proposal provides the proper market signal and incentive to encourage developers to locate projects in cost-effective areas.

¹⁰ CalWEA Comments at 8; *also see* TransWest Comments at 9.

¹¹ CalWEA Comments at 8; TransWest Comments at 7-8.

Finally, PG&E states that while this proposal may be appropriate for CAISO Cluster 4, it cautions applying this proposal as the default going forward. Tenaska would observe, however, that its own recommendation that the existence of an executed LGIAs should be the leading indicator of the likely success of a proposed renewable would not be subject to the caution that PG&E offers. To the contrary, Tenaska’s proposed modification to the proposal in Section 7.7 of the ACR *will* be relevant -- and useful -- for Clusters 5 and beyond.¹² The CAISO has proposed to implement a new “TIP/GIP” process,¹³ under which transmission interconnection studies will be conducted in a manner that is more integrated with the CAISO’s existing transmission planning process starting with Cluster 5. If this proposal is adopted, starting with Cluster 5, interconnection studies will be conducted in coordination with transmission planning. However, many proposed renewable projects will not fall within this new joint study program. Such projects will ultimately be responsible for paying the full costs – without ultimately reimbursement from the utilities of ratepayers – of their own interconnections. Under this new approach, Tenaska’s recommendation that the existence of executed LGIAs should be a key criterion in project selection will be even more valuable than it will be under Cluster 4.

F. Any Commission Action Regarding the Imperial Irrigation District Must Protect Projects Already Interconnected and Interconnecting to the Sunrise PowerLink.

A number of parties request that the CPUC address IID-related issues. However, any such review must not prejudice projects in Imperial County that already have, or soon will have, executed LGIAs or completed Phase 2 studies relying on the Sunrise PowerLink project to move

¹² PG&E RPS Plan, at 74.

¹³ See, *Tariff Amendment to Integrate Transmission Planning and Generator Interconnection Procedures (TPP-GIP tariff amendment)*, FERC Docket No. ER12-1855-000, filed May 25, 2012.

their energy to load within the CAISO. Such projects should be exempted from any subsequent analysis or review that the CPUC may conduct with respect to potential resources within the area of IID.

Tenaska takes no position on the request of IID and several other parties for the CPUC to take another look at potential resources located within the IID footprint as part of this proceeding. However, any particular attention that the Commission does pay to such resources should not be at the expense of other resources that may be physically located within Imperial County, but which can meet the needs of the customers of the CPUC-jurisdictional utilities without any further extensive studies. Thus, the Commission's promotion of potential new projects within the IID footprint should be undertaken with an eye to the fact that there are projects within Imperial County that are already moving forward and that any "new look" at projects within that county that the Commission may take should in no way prejudice those existing projects.

III. CONCLUSION

For all the foregoing reasons, Tenaska urges the Commission to modify the existing RPS procurement and review process in accordance with the substance of the foregoing Reply Comments.

Respectfully submitted,



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July 18, 2012

VERIFICATION

I am the attorney for Tenaska Solar Ventures (“Tenaska Solar”) in this matter. Tenaska Solar is absent from the County of Alameda, 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 Tenaska Solar for that reason. I have read the attached **REPLY COMMENTS OF TENASKA SOLAR VENTURES ON THE ASSIGNED COMMISSIONER’S RULING**. 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 this 18th day of July, 2012, at Oakland, California.



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