

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue  
Implementation and Administration of  
California Renewable Portfolio Standard  
Program.

Rulemaking 11-05-005  
(Filed May 5, 2011)

**COMMENTS  
OF THE DIVISION OF RATEPAYER ADVOCATES  
ON THE SECOND ASSIGNED COMMISSIONER'S RULING ISSUING  
PROCUREMENT REFORM PROPOSALS  
AND ESTABLISHING A SCHEDULE FOR COMMENTS ON PROPOSALS**

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November 20, 2012

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**I. INTRODUCTION**

Pursuant to the October 5, 2012 *Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals and Establishing a Schedule for Comments on Proposals* (ACR or October ACR), and Administrative Law Judge (ALJ) Anne Simon's November 5, 2012 e-mail revising dates for opening comments on the ACR, the Division of Ratepayer Advocates (DRA) respectfully submits the following opening comments on the ACR's proposals related to the Commission's review of renewable generation procurement.

On April 5, 2012, the Commission issued the *Assigned Commissioner Ruling Identifying Issues and Schedule of Review for 2012 Renewables Portfolio Standard Procurement Plans Pursuant to Public Utilities Code Sections 399.11 Et Seq. and Requesting Comments on New Proposals* (April ACR), which included several new proposals related to the Commission's review of renewable generation procurement. The October ACR offers additional proposals<sup>1</sup> to

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<sup>1</sup> The proposals relate to: modified rules for expedited review of certain short-term RPS power purchase and sale agreements (PPAs); new rules for expedited review of certain long-term RPS PPAs; standards of review (SOR) for investor-owned utilities' (IOU) shortlists from competitive RPS solicitations; a date certain for execution of an RPS procurement contract after approval of an IOU's shortlist, as well as a date certain for filing IOUs' executed RPS procurement contracts with the Commission; SOR for RPS PPAs that result from IOU solicitations and bilateral negotiations; SOR for proposed contract amendments to RPS PPAs; Independent Evaluator (IE) report template; implementation of new Pub. Util. Code Section 399.13(a) (4) regarding the least-cost best-fit (LCBF) bid evaluation methodology; and revisions to the Green Attributes standard term and condition (ACR at 1-2).

refine the Renewables Portfolio Standard (RPS) procurement process and the Commission's oversight of the process. The ACR proposals would move away from the existing RPS procurement process of scrutinizing individual contracts and instead seek a more holistic review of the entire RPS portfolio. Specifically, the ACR proposals seek to streamline the RPS contract review process, increase the transparency of the Commission's review of RPS procurement, establish clear standards for this review process, issue Commission determinations on contract reasonableness on a defined timeline, and, generally, to support market certainty in RPS procurement.<sup>2</sup>

DRA generally supports the proposals in the ACR. The proposals will protect ratepayers by streamlining the procurement process and increasing transparency and efficiency in the Commission's evaluation and review processes. As set forth below, DRA describes the areas in the ACR that DRA supports, along with recommended refinements that will better protect ratepayers and streamline the procurement process. Specifically, the Commission should:

- Adopt the ACR's proposal to require the investor-owned utilities (IOUs) to execute all shortlisted offers no later than twelve months after approval of the shortlist, and require the IOUs to submit the contract to the Commission for approval within one month of execution. This will minimize the possibility that the Commission will review a contract using outdated pricing information from a request for offer (RFO) that no longer reflects current market conditions;
- Utilize a Tier 2 Advice Letter review process for contracts on the shortlist that meet the ACR's expedited review prerequisites;
- Require IOUs to demonstrate why executing bilateral power purchase agreements (PPAs) outside of the solicitation is necessary;

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<sup>2</sup> ACR at 2; the ACR's proposals are designed to be implemented in conjunction with the earlier proposals in the April ACR.

- Resolve conflicts of interest in the current independent evaluation (IE) process by requiring ED staff to select and assign IEs to review contracts; and
- Hold workshops to develop least-cost best-fit (LCBF) criteria for the ranking, ordering, and selection of projects pursuant to revised Public Utilities Code Section 399.13(a)(4).

## **II. DRA’s Comments on the specific proposals/Questions Raised in the ACR**

### **A. Standards of Review for IOU’s Shortlists—ACR Q1**

The ACR proposes streamlining the Commission’s RPS contract review procedures by amending the current Advice Letter review process. This streamlined approach puts an upfront “emphasis on the review of the shortlist” in order to minimize regulatory uncertainties that may arise later in the RPS contract evaluation process.<sup>3</sup> Specifically, the ACR proposes the elevation of the IOUs’ shortlist filings from a Tier 2 to a Tier 3 Advice Letter. Moreover, the ACR’s proposal specifies that “[p]roposed contracts on the shortlist cannot be executed until the Commission adopts the shortlist in a resolution.”<sup>4</sup> DRA supports the ACR’s proposal.

The Commission should focus its attention on the quality and value of the IOUs’ shortlisted offers at the outset to avoid lengthy contract reviews on the backend. The ACR’s streamlined proposal reduces the risk that executable offers will become obsolete due to a lengthy contract review process. Therefore, DRA agrees that increasing the level of review of the IOUs’ shortlists will enhance the Commission’s RPS procurement and contract process. DRA also agrees that requiring the IOUs to submit their shortlists via Tier 3 Advice Letters provides an appropriate level of public transparency and Commission oversight. The ACR’s streamlined proposal would reduce the risk of excessive costs to ratepayers due to procedural delays that result in the consideration of contracts using price information that is no longer current.

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<sup>3</sup> ACR at 9.

<sup>4</sup> *Id.* at 10.

**B. Establish a Date Certain for Execution of an RPS Procurement Contract After Approval of an IOU's shortlist, as well as a Date Certain for Request for Commission Approval of Contracts—ACR Q2**

DRA supports the ACR's proposal that contracts must be executed within one year of shortlist approval.<sup>5</sup> A requirement of contract execution within one year of shortlist approval would keep price considerations current and relevant; specifically, the Commission would not be presented with the approval of contracts based on stale information from RFOs that are no longer comparable to or competitive with current market prices.<sup>6</sup> DRA believes that the use of more current market information will benefit ratepayers as well as market participants, who would enjoy the certainty of knowing that their contracts will compete against current benchmarks.

**C. Expedited Review of RPS Purchase and Sales Contracts—ACR Qs 3-7**

DRA supports the ACR's proposal to define expedited review prerequisites, but disagrees that there should be a different review process for contracts less than five years (<5) as compared to those five years or greater ( $\geq 5$  years) in term length. DRA supports the ACR's proposal to require a Tier 2 Advice Letter for contracts of five years or greater ( $\geq 5$  years) in term length. However, DRA disagrees with the ACR's proposal to allow the submission for review of contracts <5 years in term length using a Tier 1 Advice Letter. Although DRA supports an expedited review process, a Tier 1 Advice Letter does not provide adequate oversight for contract approval. Contracts submitted via Tier 1 Advice Letter would be effective pending disposition.<sup>7</sup> On the other hand, contracts submitted via a Tier 2 Advice Letter are effective no earlier than 30 days after submission unless Energy Division approves them sooner. In addition, Energy Division may suspend submission of a Tier 2 Advice Letter to allow a longer period of

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<sup>5</sup> In addition, DRA supports the ACR's proposal to set a one-month date certain for utility request of Commission approval after a contract is executed. (See ACR at 10.)

<sup>6</sup> Recent contracts such as Brightsource, Abengoa, and North Star illustrate the need for the Commission to address the problem of older contracts with prices in excess of what is being offered on the current market. (See DRA Protests to AL 2239-E-C, filed December 19, 2011; AL 3876-E, filed August 8, 2011; and AL 2270-E, filed August 3, 2011, respectively.). DRA recognizes that these contract examples involved consideration of price change amendments to previously executed contracts. However, the principle still applies – the Commission's consideration of contract price should be based on current and relevant market price information.

<sup>7</sup> General Order 96B: General Rule 7.5.3 at 15; and Energy Industry Rule 5.1 at 3.

review.<sup>8</sup> RPS contracts involve the significant expenditure of ratepayer funds, and a Tier 2 Advice Letter would provide ED staff and stakeholders an appropriate amount of time to address and resolve any potential defects identified in the Advice Letter. Moreover, if Energy Division determines that it is appropriate to reject a contract submitted via a Tier 1 Advice Letter, it is difficult to unwind a contract that was deemed effective pending disposition, especially when parties may have acted in reliance on an “effective” contract. Accordingly, a Tier 2 Advice Letter for contracts <5 years in term length provides an appropriate balance between expedited review and Commission oversight.

**D. Improve RPS Power Purchase Agreement Standards of Review (SOR)**

**1. Proposed SOR for Power Purchase Agreements from Solicitations—ACR Qs 8-9**

The ACR proposes rules to improve the Commission’s review of RPS power purchase agreements (PPAs) that do not meet the requirements for expedited approval (or for those that the IOU does not request expedited approval), which are submitted by Tier 3 Advice Letters.<sup>9</sup> If a PPA that results from a competitive solicitation is not consistent with the RPS Standards of Review (SOR), then the PPA will be rejected.<sup>10</sup> DRA generally supports the proposed SOR/requirements and the reasonableness review criterion set forth for the PPAs from solicitations. The ACR’s proposal would help refine the RPS procurement process and the Commission’s review of the process for PPAs from solicitations.

In addition, the ACR’s proposed cohorts to be used to evaluate the reasonableness of a contract’s price, net market value, and viability also appear to be appropriate because they would protect ratepayers from paying excessive or unnecessary costs.<sup>11</sup>

**2. Proposed SOR for Bilateral Power Purchase Agreements—ACR Qs 10-12**

The ACR proposes requiring a minimum number of development milestones for bilateral

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<sup>8</sup> General Order 96B; and General Rule 7.5.2 at 14-15.

<sup>9</sup> ACR at 17-20.

<sup>10</sup> ACR at 20.

<sup>11</sup> ACR at 19.

PPAs that utilize commercially proven technologies.<sup>12</sup> DRA generally supports the ACR’s proposed criteria and standards for review of such contracts. The rationale for a bilateral transaction is that “the transaction represents a unique fleeting procurement opportunity and that it would be detrimental to ratepayers to wait until a solicitation is held.”<sup>13</sup>

However, DRA supports the ACR’s determination that “[t]he focus of the RPS program and preference of the Commission is procurement through competitive solicitations.”<sup>14</sup> Competitive solicitations will allow for benchmarks to be established and will allow the Commission to easily determine if the contract provides an appropriate value to ratepayers. Furthermore, all three IOUs—Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), and Southern California Edison Company (SCE)—have publicly announced that they have a need for resources in Compliance Period (CP) 3 but are sufficiently procured for CP 2.<sup>15</sup> Therefore, DRA recommends that the Commission require the IOUs to demonstrate the facts that justify execution of bilateral PPAs outside of the solicitation process. This demonstration must establish facts beyond reasons such as fleeting opportunity, very high viability, and near-term commercial operation date.<sup>16</sup>

### **3. Proposed SOR for Amended Contracts—ACR Qs 13-15**

The ACR clarifies procedures and the SOR for contract amendments and/or amended and restated contracts.<sup>17</sup> Specifically, the ACR includes *Figure 2: Decision Tree for Amended Contracts* (Decision Tree) for each IOU to use in determining whether contracts that are already submitted for Commission approval and contracts that have previously been approved can be

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<sup>12</sup> ACR at 21-25

<sup>13</sup> ACR at 21.

<sup>14</sup> *Id.*

<sup>15</sup> See e.g. Comments of DRA on SCE’s Response to ALJ’s Ruling Requesting Additional Information from SCE Regarding Proposal Not to Hold a 2012 RPS Solicitation (filed September 10, 2012) at 2; PG&E’s Net Short Workshop Presentation from the Energy Division’s workshop on the Renewable Net Short, June 12, 2012: <http://www.cpuc.ca.gov/PUC/energy/Renewables/index.htm>; SCE’s Amended RPS Procurement Plan (filed August 15, 2012) at 83; and SDG&E Amended RPS Procurement Plan (filed August 15, 2012) at 12.

<sup>16</sup> DRA also recommends that the Commission clearly define terms such as “fleeting opportunity.”

<sup>17</sup> ACR at 25-29.

amended.<sup>18</sup> Any contract amendments or amended and restated contracts that change the project's technology must be re-bid into the next RPS solicitation.<sup>19</sup>

DRA generally supports the ACR's proposed SOR for amended contracts, and agrees that contract amendments or amended and restated contracts that substantially modify a term that is explicit for contract approval, should be filed by Tier 3 Advice Letter.<sup>20</sup> However, the *Decision Tree* should be modified to consider the question of need first. In other words, while any contract amendments or amended and restated contracts that change the project's technology must be re-bid into the next RPS solicitation, DRA recommends that the Commission first evaluate whether the amended contract meets need based on the latest renewable net short (RNS) in the IOU's most recently approved RPS procurement plan. If the amended contract does not meet the need based on the latest RNS, then the Commission should reject the amended contract regardless of whether the contract amendments or amended and restated contracts change the project's technology. Finally, if the amended contract does not meet the need based on the latest RNS, the amended contract must be re-bid into the next RPS solicitation. Accordingly, DRA recommends that the Commission adopt the following *Decision Tree* in lieu of the tree provided in the ACR:

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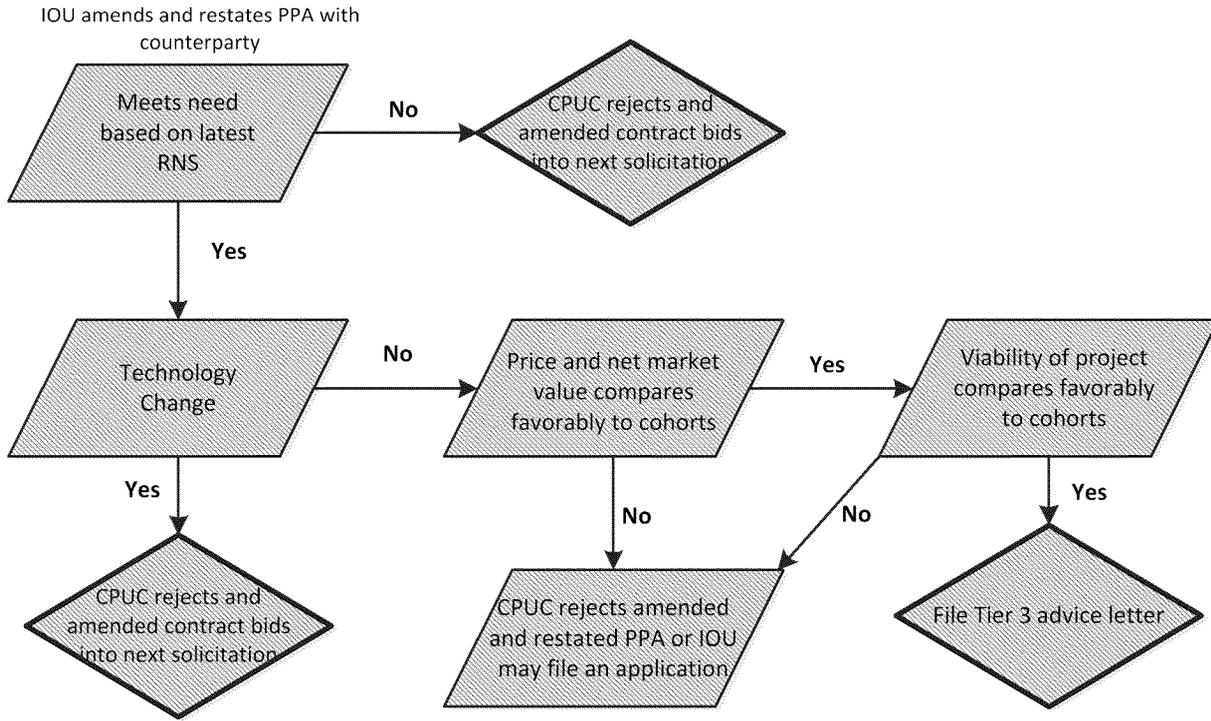
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<sup>18</sup> ACR at 27.

<sup>19</sup> ACR at 25-27; this also includes major modifications to existing technology that potentially change the economics of the project, such as the incorporation of storage.

<sup>20</sup> ACR at 26.

## SOR for Amended Contracts



#### 4. Proposed SOR for Power Purchase Agreements that are Beyond the Scope of the Commission’s Advice Letter Process—ACR Qs 16-19

DRA generally supports the SOR for PPAs that are beyond the scope of the Commission’s Advice Letter process, with some modifications. DRA recommends that “multiple phase” projects demonstrate that they are truly economically and/or technologically interdependent, and that the Commission or IOU verify this claim, either through staff or an independent evaluator. If a “multiple phase” project fails such a verification, that project should be unbundled, removed from the current RFO, and submitted and evaluated individually on its own merits in the next RFO.

DRA supports the ACR’s proposal for more thorough review of larger renewable projects through an application. Such projects have a proportionately larger impact on ratepayers if they fail, and the utilities are forced to make up that amount, potentially at a premium. However, the proposed threshold of a project’s first full year of deliveries exceeding 1% of total bundled IOU sales appears less than ideal. DRA recommends that the threshold definition for larger renewable projects be determined relative to the size of other projects in an IOU’s portfolio,

based on firmer metrics. Specifically, DRA proposes two possibilities for the threshold definition for larger renewable projects: 1) the average size of the IOU's top 10% largest renewable projects, or 2) projects more than two standard deviations larger than the median project size.

Facilities contracted with multiple IOUs may not reach the threshold definition for larger renewable projects. However, facilities that have contracts with multiple IOUs may still be large enough to have an equivalent impact on California's overall progress towards its RPS goals. Therefore, the sum of the IOUs' "percentage of total bundled IOU retail sales" (sales) should be considered when evaluating whether a project should be filed by application. For example, if the threshold-based on one of DRA's previously suggested metrics is 0.78%, and the percentage sum of PG&E and SCE's sales exceeds 0.78% in that generator's first full year of production, then this project should be filed by application.

In order for the Commission and the Legislature to better assess the potential rate impact of renewable projects on the average electric rate in California, DRA recommends that the Commission consider requiring IOUs to include a rate impact analysis with the RPS contracts when seeking approval via application. However, DRA also recommends that if such rate impact analysis is applied to renewables, the Commission consider requiring similar rate impact analysis to other projects which impact rates (such as conventional generation or transmission projects).

##### **5. Proposed SOR for Unbundled Renewable Energy Credits—ACR Qs 20-22**

Before using a particular cohort for comparison with unbundled REC contracts, DRA recommends that the Commission hold a workshop to allow parties to discuss and resolve the following issues:

- The creation and regulation of voluntary RECs differ from California's RPS compliance regulations. The price of voluntary RECs is determined by drivers of supply and demand different than the supply and demand drivers that impact the price of unbundled RECs eligible to meet California RPS compliance rules.
- The price of a compliance REC in other states is impacted by different regulations in a different context, and is therefore not comparable.

- Previous unbundled REC contracts for meeting RPS compliance targets are unsuitable for comparison because the market for this product was historically shallow. Prior to the implementation of SB 2 (1x), the shallow market resulted in unbundled REC pricing data points that were unrealistically high and unrepresentative of actual market conditions. Since then, unbundled REC prices have collapsed making it difficult to pinpoint a true REC market price.
- RECs bundled with energy (Category 1 compliance procurement instruments) cannot be compared directly to unbundled RECs. While the “renewable premium” in a PPA might be considered a proxy for the REC, the exact value ratio between the renewable premium and the associated REC has not yet been determined, and the premium has varied dramatically in solicitations and projects, making comparison difficult.

#### **6. RPS Independent Evaluator (IE) Reports—ACR Qs 23-24**

DRA generally supports the ACR’s proposal to refine the Independent Evaluator (IE) report template and the specific review, evaluation and reporting guidelines and requirements for IEs.<sup>21</sup> However, consistent with DRA’s policy position and comments on Track III of the long-term procurement planning (LTPP) proceeding, Rulemaking (R.)12-03-014, DRA continues to recommend that the Commission resolve conflicts of interest in the current IE process by requiring ED staff to make final selection of IEs and assign IEs to review contracts.<sup>22</sup> The current policy of allowing the IOUs the authority to contract with and manage the IEs conflicts with the intent of the IE process to create an independent review of the IOUs’ procurement practices. DRA continues to propose that instead of the IOUs making the final selection of IEs, ED should be empowered to make the final selection.<sup>23</sup> The IOUs can continue to request bids

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<sup>21</sup> ACR at 35-37.

<sup>22</sup> DRA’s Opening Comments in Response to the ALJ’s Ruling Seeking Comment on Workshop Topics (filed in R.12-03-014 on November 2, 2012) at 6-9.

<sup>23</sup> DRA’s Opening Comments in Response to the ALJ’s Ruling Seeking Comment on Workshop Topics (filed in R.12-03-014 on November 2, 2012) at 6-9.

and create an IE shortlist for the procurement review groups (PRGs), which include the Commission's ED as well as DRA and other non-market participants. Energy Division staff should be allowed to add or delete IE candidates to the shortlist. The IOUs' preliminary selection process for IEs should be fully transparent to the PRGs.

The *Administrative Law Judge's Ruling Addressing Motion for Reconsideration, Motion Regarding Track I Schedule, and Rules Track III Issues*, issued June 13, 2011 in R.10-05-006, included Appendix B,<sup>24</sup> which proposed procurement oversight rules related to the IE. To better address the issue of conflict of interest in the IE's oversight of utility procurement practices, the Commission should adopt the IE oversight language proposed by ED in Appendix B of the June 13, 2011 ruling in R.10-05-006, except that the Commission should delete the term "particular egregious" to qualify conflicts of interest.<sup>25</sup> Specifically, the sixth bullet in Section 1(b) of Appendix B states: "An IE may be disqualified from participating in an RFO process if there are particular egregious conflicts of interest that arise during the contract." The term "particular egregious" is unnecessary and subject to interpretation. DRA continues to recommend that the term be removed. Instead, if a potential conflict of interest arises, it should be referred to Energy Division for appropriate resolution.<sup>26</sup>

The ACR proposes review requirements and reasonableness review criterion for capacity value and ancillary services value.<sup>27</sup> Specifically, the IE needs to "provide *supplemental calculation(s)* of the Capacity Value and Ancillary Services Value for the LCBF evaluation and provide a finding regarding the reasonableness and accuracy of the IOU's calculation, illustrate the strengths and shortcomings of the calculation, and provide recommendations for improving

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<sup>24</sup> A copy of Appendix B of the June 13, 2011 ruling in R.10-05-006 is appended herein, to the instant DRA comments, as Appendix A.

<sup>25</sup> DRA's Opening Comments in Response to the ALJ's Ruling Seeking Comment on Workshop Topics (filed in R.12-03-014 on November 2, 2012) at 6-9.

<sup>26</sup> In DRA's Opening Comments in Response to the ALJ's Ruling Seeking Comments on Workshop Topics (filed in R.12-03-014 on November 2, 2012), DRA recommended that, with consideration of the specific circumstances that arise, the IE should be allowed to continue only if a majority of PRG members vote to allow the IE to continue. Upon further reflection and as indicated above, DRA believes it would be more appropriate for potential conflict of interest issues to be referred directly to Energy Division for resolution. DRA's revised recommendation to resolve potential IE conflicts of interest will be included in DRA's Reply Comments in Response to the ALJ's Ruling Seeking Comments on Workshop Topics (to be filed in R.12-03-014 on November 30, 2012).

<sup>27</sup> ACR at 36, emphasis added.

the calculation.”<sup>28</sup> DRA agrees that every IE report should comment on the reasonableness of the IOU’s calculation of Capacity Value and Ancillary Services Value. However, the Commission should explicitly clarify what a “supplemental calculation” entails. One possibility is to require the IE to run a parallel calculation to verify the IOU’s calculation. However, it may not always be appropriate to attempt to run alternative calculations if no reasonable alternatives exist. Accordingly, DRA recommends that the current language, “illustrate the strengths and shortcomings of the calculation and provide recommendations for improving the calculation” should be changed to “illustrate any strengths and shortcomings that may exist and provide recommendations for improving the calculation if any exists.”

**E. Implementation of New Least-Cost Best-Fit (LCBF) Requirements—ACR Qs 25-29**

The ACR invites parties to describe how the Commission should implement each of the four specific topics listed in revised Public Utilities Code Section 399.13(a)(4), and to compare those implementation proposals with the existing LCBF methodology established in Decision (D.) 04-07-029 and applied in the 2011 RPS Procurement Plans approved in D.11-04-030.

The first step in implementing new LCBF requirements should be to develop a stakeholder-vetted methodology that establishes how costs and benefits will be estimated as related to each of the four specific topics listed in Section 399.13(a)(4). Those costs and benefits should be fully and consistently valued across all offers and projects. DRA recommends that the Commission hold workshops to develop LCBF criteria for the rank ordering and selection of projects pursuant to new Public Utilities Code Section 399.13(a)(4).<sup>29</sup> Such workshops would provide an opportunity for stakeholders to construct a workable framework that will allow the Commission to better answer the ACR’s LCBF questions.<sup>30</sup> DRA recommends the following workshop framework based upon Section 399.13(a) (4):<sup>31</sup>

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<sup>28</sup> *Id.*

<sup>29</sup> ACR at 37.

<sup>30</sup> See D.12-11-016 at 28-29 (discussing development of renewable integration cost adder in a public forum).

<sup>31</sup> In order to better align RPS procurement with the Commission’s LTPP proceeding, the Commission should provide notice of the proposed workshops to the LTPP service list.

1. **Workshop One:** (i) Address estimates of indirect costs associated with needed transmission investments and ongoing electrical corporation expenses resulting from integrating and operating eligible renewable energy resources. The Commission should order the IOUs and invite the California Independent System Operator’s (CAISO) participation to discuss transmission and other expenses related to integration.
2. **Workshop Two:** (ii) Address the cost impact of procuring the eligible renewable energy resources on the electrical corporation’s electricity portfolio. As a first step, the Commission should direct the IOUs to present their electricity procurement portfolios so that stakeholders can comment on cost impacts as well as any impacts on the SOR for Non-Standard RPS Purchase Agreements if applicable.
3. **Workshop Three:** (iii-iv) Address the viability of the project to construct and reliably operate the eligible renewable energy resources including workforce recruitment, training, and retention efforts. The Commission should invite developers, contractors, and other interested stakeholders such as The Greenlining Institute and the California Construction Industry Labor Management Cooperation Trust to participate and provide their views and recommendations. These stakeholders would also provide a valuable insight into the employment and training opportunities, and how best to achieve any state goals related to job creation and retention.

DRA also recommends that the Commission assign an Alternative Dispute Resolution (“ADR”) judge to conduct the workshops as a neutral facilitator. Following the workshops, the Commission should order the parties to develop a straw proposal and include that straw proposal in a workshop report that also captures the parties’ positions. Parties should have the opportunity to review and comment on the workshop report before it is entered into the proceeding’s record. DRA recommends that, if parties reach a consensus on LCBF, that the Commission consider that consensus to help answer the question posed in the ACR. This approach will more accurately reflect the stakeholder’s positions and produce a usable LCBF proposal.

### III. CONCLUSION

DRA urges the Commission to adopt the proposals set forth in the ACR and in DRA's comments herein.

Respectfully submitted,

/s/ MATT MILEY

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November 20, 2012

## VERIFICATION

I, Matt Miley, am counsel of record for the Division of Ratepayer Advocates in proceeding R.11-05-005, and am authorized to make this verification on the organization's behalf. I have read the **COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE SECOND ASSIGNED COMMISSIONER'S RULING ISSUING PROCUREMENT REFORM PROPOSALS AND ESTABLISHING A SCHEDULE FOR COMMENTS ON PROPOSALS** filed on **November 20, 2012**. 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 are true and correct.

Executed on **November 20, 2012** at San Francisco, California.

Respectfully,

/s/ Matt Miley

Matt Miley