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 PROPOSED DECISION CONDITIONALLY ACCEPTING 2012 RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLANS AND INTEGRATED RESOURCE PLAN OFF-YEAR SUPPLEMENT

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November 5, 2012

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Tenaska Solar Ventures ("Tenaska") did not file Opening Comments on the Proposed Decision ("PD") because it supports the PD's conclusions. Tenaska submits these Reply Comments, pursuant to Rule 14.3, in order to rebut errors in fact presented in the Opening Comments of Pacific Gas and Electric Company ("PG&E"), the Independent Energy Producers Association ("IEP"), the California Wind Energy Association ("CalWEA") and Capital Power.

These parties allege that certain provisions in the PD will deplete the number and quality of competitive bids from developers in the utilities' Renewable Portfolio Standard ("RPS") solicitations. However, to the contrary, the PD establishes rules and timeframes that will be advantageous to experienced developers who cost-effectively site their projects – precisely the type of RPS projects that the April 5, 2012 Assigned Commissioner's Ruling ("ACR") set out to promote.

Tenaska's comments below demonstrate the value of requiring both a completed Phase II Interconnection Study ("Phase II Study") from the California Independent System Operator ("CAISO") prior to contract execution and a 12-month expiration date for the utilities' shortlists. Tenaska is an experienced and successful developer, having executed power purchase

agreements ("PPAs") for both 130 MW and 150 MW solar projects in San Diego Gas & Electric Company's ("SDG&E") service territory, among thousands of MWs of projects nationwide.[1] Tenaska does not foresee any impact on RPS prices or bid competitiveness as a result of the PD and believes that the PD will encourage developers to find low-cost, high-value points of interconnection. While Tenaska does agree with an SDG&E proposal to allow parties to apply for an extension of the 12-month shortlist deadline due to unforeseen circumstances, the remainder of the PD should be adopted in its entirety.

I. Well-Sited Projects Will Be Able to Comply with the PD's Requirements for a Completed Phase II Study and a 12-Month Expiration Date for Shortlists.

Contrary to assertions from PG&E,[2] IEP,[3] CalWEA,[4] and Capital Power,[5] Tenaska does not foresee any problems meeting deadlines, financing its projects, or maintaining competitive pricing because of the provisions in the PD. Specifically, the requirement of a completed Phase II Study before contract execution and a 12-month expiration date for utility shortlists will not affect Tenaska's ability to submit competitive bids. Those provisions favor experienced developers with a deep understanding of the California renewable energy market and provide an appropriate competitive advantage for well-sited projects.

Tenaska has had success in the California market because of its focus on locating its projects in high value, low cost points on the transmission system. Project siting is completely within a developer's control. It has a large impact, if not the largest impact of all possible factors, on a project's timeline and the cost competitiveness of a project's bids. Projects that are optimally sited should not have any issues meeting the PD's new rules and timelines. In fact,

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1 Resolution E-4408 (July 28, 2011); Resolution E-4446 (December 15, 2011).
2 PG&E Comments on the Proposed Decision, at 10.
3 IEP Opening Comments on the Proposed Decision, at 9-10, 12.
4 CalWEA Opening Comments on the Proposed Decision, at 10.
5 Capital Power Opening Comments on the Proposed Decision, at 6.

those rules and timelines will create an incentive for developers to properly site projects and to approach negotiations with the CAISO and utilities in a manner that will maximize the cost-effectiveness of RPS projects that the utilities ultimately do procure. Thus, the PD, as written, will ensure that the utilities are only signing PPAs with experienced, knowledgeable and cost-effective developers.

II. The Commission Should Adopt SDG&E's Proposal to Allow for Applications to Extend the 12-Month Shortlist Deadline Due to Unforeseen Circumstances.

While the PD's conclusions regarding the shortlist expiration and the Phase II Study are reasonable, SDG&E points out than an escape hatch should exist for unforeseen circumstances that occur during contract negotiations or interconnection studies.[6] SDG&E therefore proposes to allow a utility to seek a reasonable extension of the 12-month deadline from the Energy Division Director in "cases of reasonable delay."[7] Tenaska agrees with SDG&E's proposal but believes the right to apply for an extension should exist for both utilities and developers. Such a provision would also respond to IEP's concerns regarding differences in negotiating leverage between developers and utilities.[8]

III. Conclusion

For the reasons stated above, Tenaska urges the Commission to adopt the PD as written, but for the modifications below to the Findings of Fact and Conclusions of Law:

Findings of Fact

13. The April 5, 2012 ACR presented a proposal that bids shortlisted by the utilities would have to be executed, if at all, within 12 months from the date that the utility submits its final shortlist to the Commission. The benefits of being able to compare a contract's value and price to current solicitation data outweighs the

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6 SDG&E Opening Comments on the Proposed Decision, at 9.

7 *Id.*

8 IEP Opening Comments on the Proposed Decision at 10.

concerns regarding adopting a limited contract negotiation period. Granting the negotiating utility and developer the ability to apply to the Energy Division Director for an extension to the12-month deadline will help parties address unforeseen circumstances outside of the developer and utility's control.

Conclusions of Law

11. It is reasonable to require the shortlist to expire 12 months after approval by the Commission because the benefits of being able to compare a contract's value and price to current solicitation data outweighs the concerns regarding the constraints imposed by a limited negotiation period.

12. It is reasonable to give a negotiating developer and utility the ability to apply for an extension to the 12-month deadline in limited unforeseen circumstances outside of the developer and utility's control.

Respectfully submitted,

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November 5, 2012

VERIFICATION

I am the attorney for Tenaska Solar Ventures ("Tenaska") in this matter. Tenaska 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 for that reason. I have read the attached **REPLY COMMENTS OF TENASKA SOLAR VENTURES ON THE PROPOSED DECISION CONDITIONALLY ACCEPTING 2012 RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLANS AND INTEGRATED RESOURCE PLAN OFF-YEAR SUPPLEMENT**. 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 5th day of November, 2012, at Oakland, California.

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