

**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 CAPITAL POWER CORPORATION
ON PROPOSED DECISION CONDITIONALLY ACCEPTING
2012 RPS PROCUREMENT PLANS**

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November 5, 2012

On behalf of
CAPITAL POWER CORPORATION

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Pursuant to Rule 14.3 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, Capital Power Corporation (“Capital Power”) hereby submits the following reply to comments filed by parties on October 29, 2012, in response to the Administrative Law Judge (“ALJ”) *Proposed Decision Conditionally Accepting 2012 Renewables Portfolio Standard Procurement Plans and Integrated Resource Plan Off-Year Supplement* (“PD”), as issued on October 9, 2012. Specifically, Capital Power replies to the Opening Comments of Pacific Gas and Electric Company (“PG&E”) and San Diego Gas & Electric Company (“SDG&E”) relating to the schedule for the 2012 Renewable Portfolio Standard (“RPS”) solicitation, as put forth in the PD.

In its Opening Comments, Capital Power stressed it is essential for the Commission to align the 2012 RPS solicitation schedule with that of key milestones in the California Independent System Operator’s (“CAISO”) Generator Interconnection Procedure (“GIP”), in light of the increasingly interrelated nature of these two processes.¹ In their respective Opening

¹ Comments of Capital Power Corporation on PD, at 3.

Comments, PG&E and SDG&E proposed alternatives to the fixed dates set forth in the PD which, if adopted by the Commission with the modifications described below, could help resolve the timing concerns expressed by PG&E, SDG&E, and Capital Power.

Capital Power also needs to update the probable timeline for the 2012 RPS solicitations included in its Opening Comments, based on the schedule set forth in the PD. Subsequent to Capital Power's submission of its Opening Comments, the Commission has communicated that the PD will be considered as early as the Commissioners' meeting on November 8, 2012. If adopted at the November 8 meeting, the deadline to notify the Commission that bidding is closed could be as early as January 31, 2013. This date coincides with the deadline for Queue Cluster 5 projects to receive their Phase 1 GIP studies. As the PD also would adopt a provision requiring that bidders have a completed Phase 1 GIP study to participate in the 2012 RPS solicitation², it is all the more imperative that the Commission revise the solicitation schedule to accommodate the GIP timeline.

PG&E's Opening Comments proposed two modifications to the solicitation schedule. Specifically, PG&E requests that the Commission modify the schedule to exclude state holidays from the 14-day period PG&E and SDG&E will have to file final 2012 RPS Procurement Plans, from the date the Commission mails its decision³. Capital Power recommends that the Commission adopts this revision, and further applies this principle to subsequent deadlines in the solicitation schedule – i.e. the number of days to notify the Commission that bidding is closed should also exclude all state holidays from the date the Commission mails its decision. Incorporating this change will at minimum provide an additional cushion in the solicitation

² PD, at 41 and at 90.

³ Pacific Gas and Electric's Opening Comments on the PD, at 14.

schedule so that the bid deadline falls after the scheduled January 31, 2013 receipt date for CAISO Phase 1 GIP study results.

PG&E also requests the Commission remove the requirement that the utilities submit their shortlists on the same date, and instead require the utilities submit their shortlists within a four-month period from the close of bidding⁴. Capital Power addresses this proposal in conjunction with SDG&E's comments, discussed immediately below.

SDG&E's Opening Comments propose a more extensive modification, which would effectively eliminate the set schedule and allow SDG&E and PG&E to issue their respective RFOs at their own discretion. SDG&E argues it will be able to hold a more informed solicitation if it delays issuance of its RFO until the end of the first quarter in 2013, based on additional information that will be available regarding its contracts under development.⁵

As expressed in its Opening Comments, Capital Power agrees the utilities should be afforded some flexibility in their solicitation schedules. However, as it also noted in its Opening Comments, Capital Power is concerned that lengthy delays in issuing solicitations and/or notifying participants whether they have been shortlisted could create further conflict with the GIP process.

Capital Power therefore suggests the Commission adopts a modified version of SDG&E's and PGE's proposals, granting the utilities discretion in determining their solicitation schedules, but within certain prescribed timeframes, such that the RFOs must be issued in the first quarter of 2013, and shortlisted bidders must be notified no later than May 1, 2013.

This schedule will allow the utilities to accept bids from Cluster 5 projects after the projects receive their Phase 1 results, and will also align the shortlist date with the deadline for

⁴ PG&E's Opening Comments, at 13.

⁵ Comments of San Diego Gas and Electric Company on the PD, at 5.

Queue Cluster 5 projects to post financial security for Phase 2 GIP studies. Furthermore, it would alleviate the concerns raised by SDG&E, PG&E, and Capital Power, and facilitate informed, competitive solicitations while avoiding the risk that predetermined fixed deadlines could create conflicts with the CAISO's GIP process and penalize or prohibit some potential participants from submitting bids.

In conclusion, Capital Power respectfully requests the Commission adopts SDG&E's and PG&E's proposed changes to the solicitation schedule, subject to the contingencies that RFOs are issued during the first quarter of 2013, and that shortlisted bidders are notified by May 1, 2013. Alternatively, should the Commission choose to reject these changes, Capital Power requests the Commission, at minimum, (1) modify the deadline for PG&E and SDG&E to notify the Commission that bidding has closed to a date that would not potentially disqualify current queue cluster projects because they have not received their Phase 1 study results; and (2) provide the utilities with additional flexibility to further adjust their respective solicitation schedules to accommodate unexpected changes or delays in the GIP process that may arise.

Respectfully Submitted,

/s/ Sarah Tomec

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On behalf of
CAPITAL POWER CORPORATION

November 5, 2012

VERIFICATION

I am an authorized representative of Capital Power Corporation, and am authorized to make this verification on its behalf. I have prepared the foregoing **Reply Comments of Capital Power Corporation on Proposed Decision Conditionally Accepting 2012 RPS Procurement Plans**, dated November 5, 2012.

The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 5th day of November, 2012, at San Diego, California

_____/s/
Sarah Tomec