

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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

R. 11-05-005
(Filed May 5, 2011)

**SIERRA CLUB CALIFORNIA REPLY COMMENTS ON THE PROPOSED DECISION
CONDITIONALLY ACCEPTING 2012 RENEWABLES PORTFOLIO STANDARD
PROCUREMENT PLANS**

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ATTORNEYS FOR
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November 5, 2012

I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, Sierra Club California (“Sierra Club”) hereby submits these Reply Comments on the Proposed Decision of Administrative Law Judge Regina DeAngelis.

II. THE COMMISSION SHOULD DIRECT SCE TO CONDUCT A 2012 SOLICITATION.

Sierra Club agrees with the Large-scale Solar Association (“LSA”), the Center for Energy Efficiency and Renewable Technologies (“CEERT”), and the Independent Energy Producers (“IEP”), who each oppose the Commission granting SCE a waiver on conducting a 2012 RPS solicitation. Sierra Club is persuaded that the market data gained, as well as the risk of some projects beginning too late to become eligible for federal investment tax credit financing, are sufficient rationales outweighing the administrative expense of conducting the solicitation.

If the solicitation does not occur, Sierra Club supports the Proposed Decision in that it restricts against SCE executing bilateral contracts during the upcoming procurement cycle. Sierra Club intends to file more detailed comments in response to the Assigned Commissioner’s Ruling regarding Procurement Reform Proposals, which propose to disincentivize bilateral contracts.

III. THE ONE-YEAR PROCUREMENT CYCLE IS REASONABLE WHILE SIGNIFICANT PROCUREMENT REFORM PROPOSALS ARE UNDER CONSIDERATION, BUT IT IS ALSO REASONABLE TO ALLOW FOR QUALIFIED WAIVERS TO THE 12-MONTH CONTRACT EXECUTION DEADLINE.

Maintaining the one-year procurement cycle in the Proposed Decision offers a significant advantage for ratepayer value and the environment in that it allows the Commission to implement pending procurement reform proposals prior to authorizing procurement that would otherwise occur in the second year of a two-year cycle. Sierra Club anticipates that the Commission will implement the RPS statutory requirements modifying elements of least-cost, best-fit, including leveraging the benefits of procurement focused near existing transmission corridors and rights of way. In this transition period, it is reasonable to delay consideration of a shift to a two-year procurement cycle until after any reform proposals are implemented for the 2013 solicitation.

In reply to LSA, IEP, and SDG&E, Sierra Club recognizes that the one-year procurement authorization is distinguished from strictly implementing a 12-month timeline for utilities to execute a contract with project developers. Many factors can delay contract negotiation, including the Phase II interconnection study, and other factors mentioned by these parties. While it is still an important goal to ensure procurement is based on recent data, this proposal does not outweigh the concern of increasing the likelihood of project failure, as the pace of negotiations are often out of the control of project developers. Sierra Club supports the modification proposed by SDG&E to allow for the Energy Division Director to extend the 12-month deadline for executing contracts. Sierra Club recommends that the Commission condition this authority

on a showing that (1) project delays are a result of factors beyond the control of the project developer, (2) that the project continues to demonstrate comparable value relative to conditions at the time the projects was selected for the shortlist, and (3) the extension is for a finite period.

IV. THE COMMISSION SHOULD NOT EXCLUDE DISTRIBUTED GENERATION FROM CONSIDERATION IN RPS SOLICITATIONS.

Sierra Club finds that smaller projects will generally have difficulty competing in a RPS solicitation in part due to greater transactional costs in proportion to the cost of the project, where a unique power purchase agreement must be negotiated. However, opportunities for distributed generation are limited, with very low capacity available in each the RAM and the FIT. Sierra Club opposes the recent proposal by SDG&E to exclude projects eligible for the RAM from RPS solicitations, because this proposal would restrict distributed generation projects to limited programs with constrained capacity. Each auction may authorize less than 325 MW of generation, or about 16 projects. While the proposal is intended to apply only until the RAM program capacity is fully subscribed, the next forthcoming RAM auction will be oversubscribed, but there will still be remaining program capacity for the fourth auction. The Proposed Decision may inadvertently leave small projects without a viable opportunity for buyers. Sierra Club notes that the RAM program does not include screening for environmental impacts; therefore it is more likely that poorly-sited projects with adverse biological impacts can be processed through the RAM. For these reasons, Sierra Club urges that projects eligible for the RAM and FIT continue to be accepted for consideration for the 2012 RPS Procurement Solicitation while these programs are still in development.

V. SIERRA CLUB STRONGLY AGREES WITH CEERT COMMENTS THAT RPS PROCUREMENT PLANNING MUST ALIGN WITH LONG-TERM PROCUREMENT PLANNING AND THE LOADING ORDER.

Sierra Club strongly agrees with the comments expressed by CEERT that the Commission has neglected to coordinate RPS procurement planning with integrated resource planning efforts such as long-term procurement plans (“LTPP”). The Commission is required to implement the loading order in an ongoing manner to procure efficiency, demand response, and renewable generation before procurement of fossil fuel generation.¹ The legislature intended for RPS implementation to be “[d]isplacing fossil fuel consumption within the state,”² “[r]educing air pollution in the state,” “[m]eeting the state’s climate change goals by reducing emissions of greenhouse gases associated with electrical generation,” and for the program to obtain “the greatest environmental benefits for California residents.”³ The law requires the Commission to show that the RPS procurement plans will achieve a balanced portfolio.⁴ The RPS Procurement Plans fail to strategically implement these aspects of the law.

While Sierra Club agrees with GPI that the RPS solicitations should include data on product type (peaking, non-peaking, and baseload), this information has little consequence unless applied in coordination with an integrated resource plan that can achieve optimized procurement of balanced, diverse electricity product types within load basins to strategically displace fossil fuel use. The Commission should begin this coordination effort immediately in conjunction with

¹ California Energy Commission, Energy Action Plan II, 2005; D.07-12-052; D.12-01-033.

² Public Utilities Code Section 399.11(b).

³ Public Resources Code Section 25740.5(c)

⁴ Public Utilities Code Section 454.5(b)(9)(B); see also Public Resources Code Section 25740.5; Public Utilities Code Section 399.11(b)(6); Public Utilities Code Section 454.5(b)(9)(B).

the LTPP proceeding, and integrate the findings of this coordination into the 2013 RPS Procurement Plans.

VI. RESPONSES TO ADDITIONAL COMMENTS BY PARTIES.

- a. Sierra Club shares the concern of IEP regarding PG&E curtailment provisions.** Curtailment of renewables increases project uncertainty and risk.
- b. Sierra Club expresses concern regarding the IEP proposal to allow sellers to bundle renewable energy with resource adequacy capacity purchased from third parties.** Prior to further consideration, more evidence is required about the extent of impacts from potential use of carbon-intensive peaking capacity as the bundled RA product.
- c. Sierra Club supports accelerated progress to integrate storage into renewables procurement, as advocated by CESA.**
- d. Sierra Club agrees in concept with LSA in calling for additional public process prior to adoption of new TOD factors for solar.**

Respectfully Submitted,

_____/s/____

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VERIFICATION

I am the attorney for Sierra Club and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in this pleading are true.

I declare under penalty of perjury that the matters stated in this pleading are true and correct.

Executed on the **5th day of November, 2012**, at Berkeley, California.

/s/ Andy Katz

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