BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans	Rulemaking R-12-03-014

COMMENTS OF THE GREEN POWER INSTITUTE ON TRACK III RULES ISSUES

April 26, 2013

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Pursuant to the *Administrative Law Judge's Ruling Seeking Comment on Track III Rules Issues*, dated March 21, 2013, as modified by the March 28 email *Ruling* by ALJ Gamson extending the filing date until April 26, 2013, the Green Power Institute (GPI) respectfully submits these *Comments of the Green Power Institute on Track III Rules Issues*, in R.12-03-014, the **Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans**. The *Ruling* presents seven Track III issues for comment at this time. Our *Comments* address issue no. 3 in the *Ruling*, long-term contract solicitation rules.

Electricity procurement is a complex process in California. California energy policy has a clearly established loading order, which represents the state's priority ranking for selecting resources to fill needs. The procurement process that is under consideration in this Track of the LTPP represents the lowest rung on the priority list – conventional power. This is the procurement that fills in the holes that are left over when resources higher on the loading order have been fully deployed. Since this particular procurement is not targeted at priority resources, there is every reason to target it squarely on lowest-cost alternatives.

The thrust of issue no. 3 in the *Ruling* is how to treat existing power plants that have been upgraded or repowered and wish to bid into solicitations for new generation. In the opinion of the GPI, the Commission's singular goal in this particular kind of solicitation should be in procuring the lowest-cost energy possible. This means that the offers need to be refocused from their present orientation to the machinery that produces the needed product, to instead focus squarely on the needed products themselves, regardless of how they are produced. If a particular product or service can be provided equally well by a

greenfield facility or a repower of an existing facility, then delivered price should be the only determining factor.

Of course, no two bidders in a solicitation offer identical packages of products, even when they are using the same energy resource and conversion technology, and every utility has to compare the bids it receives with respect to not only price, but with consideration given, either positive or negative, for the peculiarities of the offers. For example, if it is known or can be demonstrated that a facility with a repower will not be able to deliver the same level of operational availability as a greenfield facility, then it would be appropriate to handicap the bid from the repower. On the other hand, if the repower can be expected to deliver the same level of availability as a greenfield, then there is no reason to treat it differently in the solicitation process based on this particular characteristic.

In some cases, upgrades or repowers may involve the introduction of new technology to an existing facility. The example used in the *Ruling* is the addition of a storage system to an existing facility. This kind of alteration not only has potential implications for characteristics such as a facility's longevity and reliability, it also can change the nature of the product that the facility delivers to the grid. This makes comparing proposals more challenging, but it does not change the fundamental principle that the comparison should be on the basis of the characteristics of the product being delivered, not on the basis of the characteristics or capabilities of the machinery producing the product.

In question 3.a.ii., the *Ruling* asks whether the same restrictions governing contract lengths that a solicitation applies to new facilities should also be applied to facilities with repowers or upgrades. In the spirit of using this low-rung procurement mechanism to fill in a utility's net short with the lowest-cost energy, there is no reason to impose different rules or restrictions on facilities just because they are upgrades or repowers of existing facilities. This is an area where a level playing field for all is absolutely appropriate. On the other hand, it is important for the Commission to make sure that the rules and restrictions in a given solicitation are reasonable and necessary to the goals of the

solicitation, and are not designed to exclude or handicap one type of potential bidder over another. Finally, we would like to put in a good word for all-source solicitations for the procurement of non-preferred energy resources. The more open the solicitation, the more likely it is that these kinds of needs can be filled at lowest cost.

The final part of the issue, question 3.a.v., addresses the issue of how to handle bilateral agreements that may be negotiated by the utilities with existing facilities that undergo repowers or upgrades. We believe that this is an important option to keep open, because repowers or upgrades of existing facilities in some situations can produce unique outcomes that do not fit neatly into existing competitive procurement mechanisms. All-source solicitations focused on products would help, but for now we believe that this option should remain open. Bilateral contracts should be reviewed using the Commission's usual guiding principle: Is it just and reasonable?

Dated April 26, 2013, at Berkeley, California.

Respectfully Submitted,

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