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 THE UTILITY REFORM NETWORK

ON §399.20 STANDARD CONTRACT PROPOSED DECISION

Marcel Hawiger, Staff Attorney

THE UTILITY REFORM NETWORK
115 Sansome Street, Suite 900
San Francisco, CA 94104
Phone: (415) 929-8876 ex. 311
Fax: (415) 929-1132
Email: marcel@turn.org

April 15, 2013

REPLY COMMENTS OF THE UTILITY REFORM NETWORK ON §399.20 STANDARD CONTRACT PROPOSED DECISION

TURN respectfully submits these reply comments to opening comments on the PD/APD, which were filed April 8, 2013. TURN has not previously submitted comments on the proposed standard contract for Re-MAT projects. TURN represents the interests of residential utility customers. As such, we evaluate utility procurement contracts from the perspective of whether they provide the best value to ratepayers and properly allocate risks that would eventually fall upon ratepayers.

Moreover, since TURN has long been committed to promoting a sustainable environmental energy path that includes least-cost renewable procurement strategies, we also evaluate the proposed Re-MAT standard contract from the perspective of promoting the small renewable market sector and minimizing total societal costs.

1. PG&E's Proposal for a Price Increase Trigger of 20%, or DRA's Proposal for a Price Adjustment Cap, Should be Adopted If the Commission Adopts the 10 MW Capacity Allocation

The PD/APD recognizes that in amending the capacity allocation so as to allow up to 10 MW for each product type in each bi-monthly period, the PD/APD changes the "duration of the program."[1] This significant change modifies the cost containment mechanism inherent in the price adjustment process originally proposed. The efficacy of a market price adjustment depends most significantly on the number of solicitations and the price change mechanism for each solicitation. The IOUs and DRA explain at length why this one significant change could significantly increase ratepayer costs.

There are two specific realistic problems.

---

[1] PD at 12.

First, some product types (for example, peaking as-available) may subscribe quickly before prices decline. The Re-MAT program allocates approximately 493 MW to the three electric IOUs. However, over 175 MW is already under contract pursuant to AB 1969 standard contracts. A 30-MW capacity allocation amount means that the number of bi-monthly periods prior to capacity fulfillment may be limited, especially for SDG&E. The program will terminate even though there is significant market potential at lower prices.

Second, the non-peaking product category may benefit from price increases due to the unlimited duration of the program. The comments of Henwood Associates indicate that the non-peaking as-available category may be subscribed by existing QF projects that are coming off contracts during 2012-2020.[2] This should not be a surprise, given that of PG&E's 25 online E-SRG and E-PWF projects, all but four are existing small hydro projects. These projects have already provided power under prior QF contracts and likely have significant pricing flexibility.[3] A small number may bid into each period over several years. If the amount bidding in each period is limited due to contract expiration times, rather than due to market response to the Re-MAT price, the Re-MAT price may increase based on the trigger even though it has nothing to do with actual market prices.

In order to protect ratepayers from potential overpayments due to both of these problems associated with a 30-MW allocation and unlimited duration, the Commission should adopt *one or both* of the proposals made by PG&E (reduce the price increase trigger from 50% to 20%) and DRA (limit prices increases to $12/MWh maximum increase).

---

[2] Henwood Associates Opening Comments, p. 3.

[3] Indeed, ideally such existing projects should not even qualify under a feed-in tariff, since the primary goal of a feed-in tariff is to provide the price certainty useful for financing and constructing small *new* projects.

2. The Starting Price Should Be Updated Consistent With Prior Policy

The utility proposed tariff submitted on 7/18/12 used $89.23/MWh as the starting price, based on the order in D.12-05-035. However, consistent with that decision, the starting price should be updated based on the results of the third RAM auction, as recommended by the Division of Ratepayer Advocates.[4]

The fact that the number of bi-monthly periods may be lower under the 30-MW allocation may limit the number of price adjustments due to current market conditions. Such an outcome places even more importance on the initial administrative starting price.

D.12-05-035 called for starting the Re-MAT at the prices resulting from an average of the *highest* signed contract prices from the 2011 RAM auction and justified this price as "a reasonable starting price for the FiT because it is set by *the most recent* comparable competitive solicitation for renewable generation."[5] However, the Re-MAT program cannot start until June 2013 at the earliest. The utilities held the second RAM auction in May 2012 and the third RAM auction in December 2012.

TURN assumes that in keeping with the policy of using "the most recent" solicitation results, the Commission intends to use the RAM-3 auction results as the starting price. This should be made explicit in the ordering paragraphs and implementing tariffs.

3. The Timing of Insurance Requirements Should be Relaxed

Several parties suggest relaxing the terms pertaining to insurance, especially regarding the amounts of coverage, types of coverage, and starting date for coverage.[6] TURN recommends that the Commission relax the start date of coverage to account for the practical difference between Re-MAT and RAM approval processes.

---

[4] DRA Opening Comments, p.

[5] D. 12-05-035, p. 44.

[6] Clean Coalition, p. 25; Henwood, p. 7; SEIA, p. 4-5.

Henwood argues that the RAM provides that developers must furnish PG&E with "certificates of insurance" after commencement of physical activity. This is true; however, the RAM also specifies that the developer must "obtain and maintain" insurance coverages "throughout the Term" of the contract.[7] The Term of the contract starts after the effective date of a CPUC-approved Advice Letter.[8] HAI is thus incorrect in implying that insurance need not be purchased prior to start of work. Indeed, SCE's RAM contract apparently requires insurance coverage to start at contract execution.[9]

Nevertheless, TURN appreciates that for certain small developers the necessity to purchase insurance (or make other outlays) immediately upon contract execution creates financial pressure, since project financing often depends first on an executed PPA. Thus, TURN recommends that a practical solution is to require insurance not "starting on the Execution Date," but rather starting the earlier of "60 days after Execution" or "the commencement of any material physical work on the site."

4. The IOUs Could Offer Other Fee Services

The Proposed Decision responds to the recommendation of stakeholders and provides an opportunity for sellers to pay the IOU "a reasonable fee for the forecasting service."[10] In general, TURN strongly supports such an option. It is possible that other functions also involve economies of scale, so that it would be more economical (especially from a societal perspective) to have the IOU, rather than many individual project developers, perform the function.

Nevertheless, performing such a function does impose some incremental cost on the IOUs. Thus, the appropriate policy response is the one adopted in the PD - to authorize the IOU to provide such services *on a fee basis* to developers.

[7] PG&E RAM PPA, 11/15/12, Section 10.10.
[8] PG&E RAM PPA, 11/15/12, Sections 2.5 and 2.4(a).
[9] SCE RAM 2 Pro Forma Contract, Section 10.11.
[10] PD at 56.

SB_GT&S_0542658

TURN suggests that the PD be modified to require the IOUs to collect data on potential incremental costs of providing services (for example, forecasting, billing, QRE, scheduling) so as to facilitate the setting of "reasonable fees" in the future.

5. The Collateral Obligation Should Remain Post-Construction

The Clean Coalition urges eliminating collateral obligations "post-construction" based on the fact that the seller has an incentive to keep the project operational. TURN notes, however, that non-performance due to operational problems is not the only concern for ratepayers. The collateral also protects against a Seller intentionally breaching the contract if opportunities arise to resell the renewable output at a higher price to another party.

On the other hand, TURN could support relaxing the Guaranteed Energy Production term, as long as it is clear that any reduced production resulted from operational causes and not due to selling output to a different party under another contract.

April 15, 2013

Respectfully submitted,

___________/S/___________

Marcel Hawiger
Staff Attorney for

The Utility Reform Network
115 Sansome Street, Suite 900
San Francisco, CA 94104
Phone: 415-929-8876 x304
matthew@turn.org

SB_GT&S_0542659

VERIFICATION

I, Marcel Hawiger, am an attorney of record for THE UTILITY REFORM NETWORK in this proceeding and am authorized to make this verification on the organization's behalf. The statements in the foregoing document are true of my own knowledge, except for those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I am making this verification on TURN's behalf because, as an attorney in the proceeding, I have unique personal knowledge of certain facts stated in the foregoing document.

I declare under penalty of perjury that the foregoing is true and correct.

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

__________/s/________________

Marcel Hawiger
Staff Attorney