

April 29, 2013

VIA E-MAIL

Maria Salinas
California Public Utilities Commission
Energy Division
505 Van Ness Avenue
San Francisco, CA 94102-3298

Re: Draft Resolution E-4582: Changes to the Renewable Auction Mechanism for Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company

Dear Ms. Salinas:

Recurrent Energy is pleased to offer these comments on Draft Resolution E-4582 (the Draft) circulated on April 9, 2013 by the Energy Division on its own motion pursuant to D.10-12-048.

The Draft would modify the capacity allocation requirements for the fourth Renewable Auction Mechanism solicitation (RAM 4) and set its closing date as June 28, 2013. It would also authorize a fifth RAM auction (RAM 5), to close no later than June 27, 2014.

Recurrent Energy supports the Energy Division's proposed modifications to RAM 4 capacity allocation targets, which would retain two-thirds of the capacity authorized for a RAM 4 solicitation closing on June 28, 2013, and shift the other one-third of that capacity to RAM 5.

We also fully support a RAM 5 auction. However, we are concerned that the proposed June 2014 outside closing date for that auction will complicate financing for RAM projects beyond RAM 4; impose significant additional costs on utility ratepayers; and jeopardize progress toward California's renewable energy and climate change goals. For reasons explained below, we therefore urge the Commission:

1. to advance RAM 5's closing date to approximately six months following RAM 4, or December 2013, and
2. to authorize three additional annual RAM solicitations (RAM 6, 7 and 8) to ensure that all authorized RAM capacity can be procured, and that any capacity previously allocated to failed projects contracted through the RAM 4 auction can be re-solicited, re-contracted, and replaced.

1. Advancing the RAM 5 auction to December 2013, will enable more projects to benefit from the 30% federal investment tax credit scheduled to expire December 31, 2016, resulting in substantial ratepayer savings for RAM projects.

We agree with the Energy Division that a fifth RAM auction is necessary to ensure that the Commission's authorized target of 1,299 megawatts can be met, because (a) there is no assurance that the IOUs will be able to procure their full MW allocations through the RAM 4 auction, and (b) there is no mechanism for them to procure additional RAM contracts to replace any previously executed contracts which fail or are terminated prior to their commercial operation date (COD).

We also appreciate the Energy Division’s charge to explore methodologies to align RAM procurement authority with the Commission’s procurement planning process and with utility resource needs, cited in the Draft¹ as a reason to shift some RAM 4 capacity to RAM 5.

What concerns us is the Draft’s recommendation that the RAM 5 solicitation close “no later than June 27, 2014,” a full year after RAM 4 closes. In the context of the RAM program originally authorized by the Commission in D. 10-12-048, we agree with the Draft’s proposed finding that “it would be consistent with the original intent of the RAM Decision for the fourth RAM auction to close “ approximately six months after the close of the third RAM auction.”² For the same reasons, *it would be consistent with the RAM Decision for the fifth RAM auction to close six months after RAM 4 closes* “i.e., December 2013. In adopting the original requirement for bi-annual RAM solicitations, the Commission emphasized that

[o]ne important advantage of a fixed-price FIT is that it is continuously available (i.e., projects can access the tariff at any time). We lose that benefit with RAM, but in exchange gain potential cost savings from competition. *At the same time, we want to minimize the loss of the continuous availability element as much as possible.*³

Even more important than the principle of continuous availability, is the critical fact that the 30% federal investment tax credit (“ITC”) for solar is scheduled to expire on December 31, 2016.⁴ It goes without saying that the ITC has been a key driver in attracting tax equity investment for solar development in California and throughout the U.S., and a central factor in achieving scale economies that have dramatically reduced solar costs in recent years. The 30% credit has effectively meant that for every dollar of qualified solar investment in RAM projects, IOU ratepayers are paying only 70 cents. Absent federal law changes, after December 31, 2016, ratepayers will pay 90 cents for every dollar invested “a nearly 30% increase over the cost of RAM projects that achieve commercial operation before that date.

Under the Energy Division’s recommendation to shift one-third of the capacity allocated for RAM 4, RAM 5 will solicit at least 108 MW of renewable projects, and possibly considerably more if earlier RAM contract failures turn out to be significant and the IOUs solicit new development to replace those. Without knowing the actual size of that solicitation or the cost of projects that will successfully bid into it, the additional cost to ratepayers for projects with a much-reduced ITC cannot be quantified. However, we do know that a single RAM project that might have cost ratepayers \$40 million with the 30% credit, is likely to cost well over \$50 million without it. Cost premiums of that magnitude could add up very quickly for 108 MW or more of capacity acquired through RAM 5, and could approach or exceed \$100 million in extra ratepayer costs (depending on the number and size of failed contracts replaced in RAM 5)

Figure 1 below roughly illustrates the timelines at issue here, and the potential consequences of delaying RAM 5 until mid-2014:

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¹ Draft Resolution E-4582, p. 5.

² Draft Resolution, pp. 5 and 7.

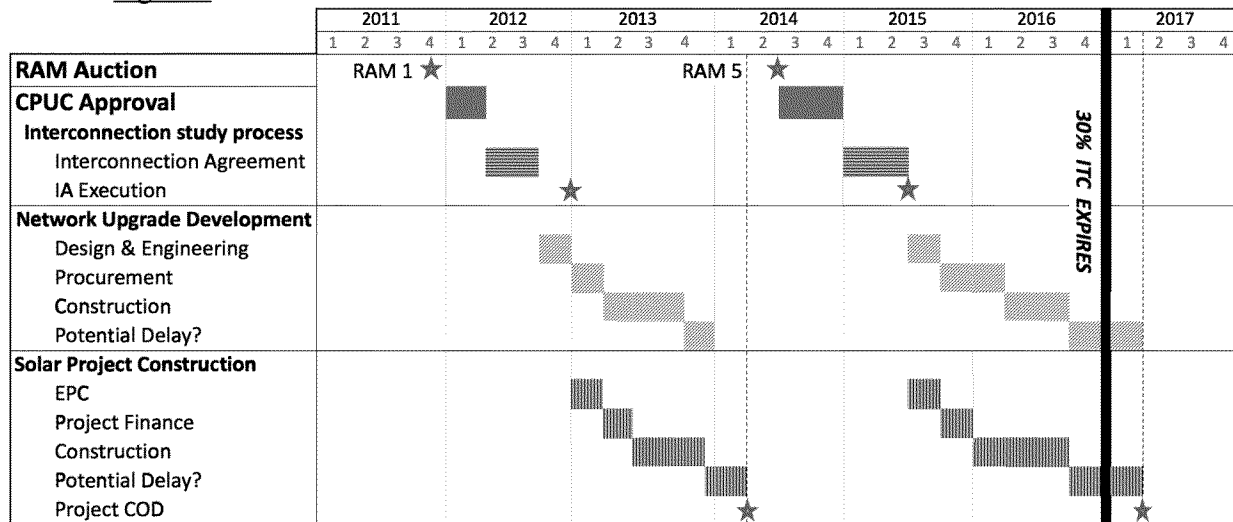
³ Draft Resolution E-4582, at ¶¶ 2-33 (emphasis added).

⁴ Internal Revenue Code § 48(a)(2)(i)(II) and (3)(A)(i); as of January 2017, the solar credit will revert to 10%.

⁴ Internal Revenue Code § 48(a)(2)(i)(II) and (3)(A)(i); as of January 2017, the solar credit will revert to 10%.

Efforts are ongoing to extend the solar ITC but none have succeeded so far, and financing sources may not lend to developers for future projects simply in the hope that these efforts may at some point bear fruit.

Figure 1



Individual project timelines of course vary, but those shown in the chart are representative of the RAM program to date. What they indicate is that, although some projects awarded contracts based on a June 27, 2014 auction may reach COD by the end of 2016, many will be at substantial risk of not making that ITC deadline. Because financing sources must decide whether or not to finance and at what cost, based on their risk assessment at least a full year before the ITC is set to expire and without knowing then what delays a project might encounter, sources may shift additional risk to developers through stricter terms, may extend credit only at significantly higher cost, or may decline to finance the project, given the probabilities that COD may not occur before the existing tax credit expires.

Stated simply, projects considering bidding into a June 2014 RAM auction are likely to encounter financing prospects that are at best uncertain and costly, and at worst non-existent. Ongoing solar industry developments portend that solar costs will continue to decline over the next year so some projects will certainly remain attractive to offtakers; but otherwise viable projects may fall out under the risks and uncertainties of completion before the 30% ITC expires.

Recurrent Energy appreciate the Energy Division’s desire to delay RAM 5 beyond the program’s existing 6-month auction interval to more closely align RAM procurements with utility resource needs. As we understand those needs, the IOUs will generally be net long in their RPS compliance positions until 2018, so even RAM resources that come online in 2016 or 2017 under the Energy Division’s proposal will temporarily exceed IOU compliance needs. This means that the IOUs may need to either bank excess RECs, or resell energy and RECs from those resources in any case – an action they are well positioned to take and have already taken in some cases.⁵ Reselling energy and RECs acquired under RAM until IOU compliance needs catch up, will benefit the utilities and their ratepayers far more than exposing them to as much as \$100 million or more in additional costs from projects unable to take advantage of the 30% ITC.

2. Ordering three additional annual RAM solicitations beyond RAM 5 should ensure that all authorized RAM capacity can be procured, and that any capacity previously allocated to failed projects contracted through the RAM 5 auction can be replaced.

⁵ See, e.g., Southern California Edison Advice Letter 2641-E requesting approval of a contract for sale of bundled renewable energy from SCE’s renewable resource portfolio (dated October 20, 2011), and Resolution E-4449 approving the sales contract without modification (issued February 6, 2012).

RAM program capacity from failed projects should be procured through the RAM program, but need not be offered through solicitations designed to exercise the 30% ITC □those megawatts have already had that opportunity. Providing for three annual solicitations beyond the proposed RAM 5 auction would allow sufficient time and opportunity to replace capacity allocated to any failed RAM contracts through the fifth solicitation. Without changes to the Internal Revenue Code, these later solicitations could not benefit from the 30% ITC, but they could take advantage of the remaining 10% solar investment tax credit. With continuing reductions in costs through 2016, we expect that solar projects will compete favorably with both renewable and conventional resources at that time.

In Resolution E-4489, the Commission extended the COD for RAM projects from 18 months to 24 months following Commission PPA approval.⁶ This means that any failed contracts through RAM 4 in June 2013 could be replaced through annual solicitations held through December 2015.⁷ The Energy Division proposes and we agree that RAM 5 should include capacity from the initial program allocation, so additional solicitations should be scheduled during 2014, 2015, and 2016 to incorporate program fallout from all 5 solicitations of original volume in order to ensure procurement of the full 1,299 MW that the Commission has ordered acquired under RAM.

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For the reasons discussed above, Recurrent Energy urges the Commission to approve the Draft Resolution, with the modifications recommended here.

Respectfully submitted,

/s/ John Nimmons

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⁶ Resolution E-4489, at p. 11

⁷ MWs procured from a RAM 4 solicitation closing in June 2013, as proposed, are unlikely to be approved by the Commission before December 2013; the full extent of any dropouts may not be known until 24 months later.

SUBJECT INDEX

Recurrent Energy supports the Energy Division’s proposed modifications to RAM 4 capacity allocation targets, and the recommendation for a fifth RAM auction..... 1

Recurrent Energy recommends that the Commission advance RAM 5’s closing date to six months following RAM 4, or December 2013, to enable more projects to benefit from the 30% federal investment tax credit and deliver substantial savings to ratepayers..... 1

Recurrent Energy recommends that the Commission authorize three additional annual RAM solicitations following RAM 5 to ensure that all authorized RAM capacity can be procured. 4

PROPOSED FINDINGS AND ORDERING PARAGRAPHS

FINDINGS AND CONCLUSIONS

1. It would better align with utility need to delay some RAM procurement beyond the scheduled fourth RAM auction.
2. It would benefit the renewable market and improve RAM to order the utilities to more ratably solicit their remaining authorized RAM capacity across the fourth and fifth RAM auctions.
3. The three investor-owned utilities must reserve one-third of their remaining previously authorized, yet unsubscribed, RAM capacity for their respective fifth RAM auctions.
4. The three investor-owned utilities should adopt procurement targets for the fourth RAM auction equal to two-thirds of their remaining previously authorized, yet unsubscribed, RAM capacity.
5. It would be consistent with the intent of Decision 10-12-048 for the fourth RAM auction to close on June 28, 2013, approximately six months after the close of the third RAM auction.
6. No mechanism is currently in place to authorize a utility to solicit additional RAM contracts in the event that a utility fails to procure contracts for all of its capacity targets in the fourth RAM auction.
7. There is no mechanism for the IOUs to solicit additional RAM contracts to replace any previously executed RAM contracts which may fail or may be terminated.
8. It is necessary to authorize a fifth RAM auction to allow the IOUs to procure additional RAM contracts to meet their previously authorized RAM capacity allocation, and to replace capacity from any previously executed RAM contracts which, by that time, have failed or have been terminated prior to reaching their commercial operation date.
9. The fifth RAM auction should close no later than ~~June 27, 2014~~ *December 31, 2013*.
10. *It is prudent to authorize three additional annual RAM solicitations following the fifth RAM auction to allow the IOUs to replace capacity from any previously executed RAM contracts through the fourth RAM auction, which have failed or have been terminated prior to reaching their commercial operation date.*

PROPOSED FINDINGS AND ORDERING PARAGRAPHS (cont)

THEREFORE IT IS ORDERED THAT:

1. The fourth Renewable Auction Mechanism solicitation authorized for Southern California Edison Company, San Diego Gas and Electric Company, and Pacific Gas and Electric Company shall close by June 28, 2013.
2. A fifth Renewable Auction Mechanism solicitation shall be held by Southern California Edison Company, San Diego Gas and Electric Company, and Pacific Gas and Electric Company and shall close by ~~June 27, 2014~~ December 30, 2013.
3. San Diego Gas and Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company shall each reserve one-third of their previously authorized, yet as of today unsubscribed, Renewable Auction Mechanism capacity allocation for their fifth Renewable Auction Mechanism solicitations.
4. San Diego Gas and Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company shall each set procurement targets equal to two-thirds of their previously authorized, yet as of today unsubscribed, Renewable Auction Mechanism capacity allocation for their fourth Renewable Auction Mechanism solicitation.
5. *San Diego Gas and Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company shall each hold three additional annual RAM solicitations following the fifth RAM auction, for the purpose of replacing capacity from any previously executed RAM contracts through the fourth RAM auction, which have failed or have been terminated prior to reaching their commercial operation date.*
6. The RAM program rules contained in Appendix A are adopted. *[conform program rules]*