

# INDEPENDENT ENERGY PRODUCERS

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June 17, 2013

Via email to EDtariffunit@cpuc.ca.gov

Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**Re: Comments of the Independent Energy Producers Association on Draft Resolution E-4593**

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Dear Sir or Madam:

Draft Resolution E-4593 proposes to authorize Southern California Edison Company (SCE) to enter into 80 long-term power purchase agreements (PPAs) for the output from small solar photovoltaic projects with a total capacity of 112.52 MW under SCE's California Renewable Energy Small Tariff (CREST) program, as requested in SCE's Advice Letter (AL) 2870-E and AL 2870-E-A.

The CREST program grew out of Assembly Bill (AB) 1969 ((Yee) Stats. 2006, Chapter 731)). AB 1969 required California's investor-owned utilities, including SCE, to procure a total of 250 MW of renewable generation capacity through a feed-in tariff. The authorization of AB 1969 was for procurement of capacity owned and operated by a public water or wastewater agency, but in Decision (D.) 07-07-027, the Commission expanded that authorization to create a parallel feed-in tariff program, for SCE and Pacific Gas and Electric Company only, to procure the output of small renewable energy resources owned by other entities. SCE refers to this parallel program as the CREST program. In Resolution E-4137, the Commission authorized SCE to procure 123.8 MW of renewable generation from projects with capacities of no more than 1.5 MW under the CREST program. SCE acquired the 123.8 MW authorized for the CREST program on July 20, 2012. SCE explains that the 112.52 MW procurement authority requested in AL 2870-E and 2870-E-A is in excess of the 123.8 MW CREST procurement authorized in D.07-07-027.

## **The Draft Resolution's Expansion of the CREST Program Conflicts with the Commission's Intent Expressed in Decision 07-07-027**

Draft Resolution E-4593 bases its proposed approval of SCE's requested excess CREST procurement largely on a footnote in D.07-07-027.<sup>1</sup> In that footnote, the Commission

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<sup>1</sup>Draft Resolution, p. 13.

stated that respondents, including SCE, “may voluntarily elect to purchase energy from additional projects,” but such additional purchases require review by the Commission.<sup>2</sup> However, this footnote occurs in the discussion of the original feed-in tariff for projects owned and operated by a public water or wastewater agency, not to the expanded CREST program. The expanded CREST program is addressed much later in D.07-07-027.<sup>3</sup> It is significant that in the discussion of the expanded CREST program, the Commission repeatedly stressed that the expansion was *limited*. The Commission viewed the limited authorization, moreover, as protection against an excessive response to the CREST feed-in tariff. The capacity limit “will contain the magnitude of the consequences, if any.”<sup>4</sup> The limitation will allow SCE and the Commission to gain experience with a feed-in rate program, “without exposing projects, ratepayers, utilities, or the state to unreasonable risks.”<sup>5</sup> The Commission summarized this concept in Finding of Fact No. 30:

The fixed capacity allocation of 228.4 MW for expansion of the program to other (non-water/wastewater) customers will, by containing the magnitude of the consequences, if any, mitigate problems should there be an excessive response.<sup>6</sup>

Despite the Commission’s emphasis on the limiting the capacity of the expanded CREST program, Draft Resolution E-4593 proposes to nearly double SCE’s allocation for the CREST program as authorized in D.07-07-027, which in turn created a new program that doubled the original authorization of AB 1969, from 250 MW to 500 MW.

### **SCE Has Not Demonstrated that the PPAs are the Least-Cost / Best-Fit Options**

The prices to be paid under the 80 proposed PPAs is the 2011 Market Price Referent (MPR) adopted in Resolution E-4442.<sup>7</sup> Presumably, SCE used the MPR because the Commission in 2007 had instructed the utilities to use the MPR as the price for the feed-in tariff.<sup>8</sup> The PPAs were executed, however, sometime after July 20, 2012,<sup>9</sup> and much had changed between 2007 and mid-2012. In April 2011, over a year before the PPAs were executed, Senate Bill 2 (1X) took effect and, as a result, the MPR was abolished. The Commission is now required to adopt limitations on “the procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard.”<sup>10</sup>

IEP does not have access to information that would reveal whether the prices to be paid under the 80 proposed PPAs are high relative to the prices paid to other renewable

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<sup>2</sup> D.07-07-027, p. 13, fn.12.

<sup>3</sup> D.07-07-027, pp. 46-48.

<sup>4</sup> D.07-07-027, p. 48.

<sup>5</sup> D.07-07-027, p. 48.

<sup>6</sup> D.07-07-027, p. 57.

<sup>7</sup> Draft Resolution E-4593, p. 4, note.

<sup>8</sup> D.07-07-027, p. 59 (Conclusion of Law No. 15).

<sup>9</sup> SCE AL 2870-E, p. 5.

<sup>10</sup> Pub. Util. Code § 399.15(c), (d).

resources in 2012 and 2013, *i.e.*, whether the 80 proposed PPAs meet the least-cost test. Neither SCE's advice letter nor Draft Resolution E-4593 provides any showing that the 80 proposed PPAs are the least-cost (let alone the "best-fit") choices for California ratepayers, in compliance with the Commission's policies on renewable procurement.

SCE's request for approval of an additional 112.5 MW under the CREST program seems to conflict with its request to forgo a 2012 RPS solicitation because it had no need for additional renewable resources until 2017.<sup>11</sup> The Commission acceded to SCE's request, noting, "We find it reasonable that SCE forecasts that it has a net long position in both compliance period 2011-2013 and compliance period 2014-2016 but a net short position of 14,700 GWh for the 2017-2020 compliance period."<sup>12</sup> According to the Draft Resolution, all of the 80 PPAs have a commercial operation date in 2013 or 2014, when SCE has a net long position, and at least three years before SCE will experience any net short position for its RPS obligation.

If SCE truly has a need for an additional 112.5 MW of renewable resources, the Commission should reject the Draft Resolution and instead order SCE to conduct, as soon as possible, a Request for Offers in which renewable project of all technologies and all sizes are eligible to compete. As the Commission has repeatedly recognized, a competitive solicitation open to all qualifying renewable technologies is the best way to ensure that least-cost / best-fit resources are selected.

## **Conclusion**

For these reasons, IEP respectfully urges the Commission to reject Draft Resolution E-4593 and deny SCE's request to procure an additional 112.5 MW through 80 PPAs under the CREST program, a procurement that is above and beyond what the Commission required when it authorized the CREST program.

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<sup>11</sup> D.12-11-016, pp. 54, 56.

<sup>12</sup> D.12-11-015, p. 56, citing SCE's updated 2012 RPS Plan, filed in R.11-05-005 on August 15, 2012 at 7.

Very truly yours,

A handwritten signature in black ink that reads "Steven Kelly". The signature is written in a cursive style with a large, stylized "K" and "y".

Steven Kelly  
Policy Director

cc: President Michael R. Peevey  
Commissioner Mark J. Ferron  
Commissioner Michel P. Florio  
Commissioner Carla J. Peterman  
Commissioner Catherine J.K. Sandoval  
Ed Randolph, Director, Energy Division  
Karen Clopton, Chief Administrative Law Judge  
Frank Lindh, General Counsel  
Adam Schultz, Energy Division (via email: Adam.Schultz@cpuc.ca.gov)  
R.11-05-005 Service List