

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 CITY AND COUNTY OF SAN
FRANCISCO ON STAFF'S PRELIMINARY PROPOSAL TO CLARIFY
THE CONFIDENTIALITY RULES FOR THE RENEWABLE
PORTFOLIO STANDARD PROGRAM**

Pursuant to the July 1, 2013, *Administrative Law Judge's Ruling Requesting Comments on Preliminary Staff Proposal to Clarify and Improve Confidentiality Rules for the Renewables Portfolio Standard Program* ("ALJ Ruling") and the July 16, 2013, email from Administrative Law Judge Simon granting in part the request for an extension of time to file comments and reply comments on the ALJ Ruling, the City and County of San Francisco ("San Francisco") submits the following reply comments on the preliminary proposal ("Preliminary Proposal") of the California Public Utilities Commission ("CPUC") staff to modify the confidentiality rules applicable to the renewables portfolio standard ("RPS") program.

San Francisco:

- Agrees with the Marin Energy Authority ("MEA"), the Division of Ratepayer Advocates ("DRA"), the Green Power Institute ("GPI") and others that greater transparency in the procurement process of the Investor Owned Utilities ("IOU") would be a significant improvement over the status quo, particularly the disclosure of renewable contract prices prior to contract approval; and
- Agrees with MEA, and the Center for Energy Efficiency and Renewable Technologies ("CEERT") that greater transparency is also needed for fossil fuel procurement.

I. SAN FRANCISCO AGREES WITH MEA, DRA, GPI AND OTHERS THAT THE IOU PROCUREMENT PROCESS SHOULD BE MORE TRANSPARENT

San Francisco agrees with MEA, DRA, GPI and others that the IOU procurement process should be more transparent.¹ As MEA points out, all customers must pay for the IOUs' above-market procurement costs.² Nonetheless, as GPI explains, only the small number of consumer advocates willing to sign nondisclosure agreements and Commission staff can effectively participate in the process for reviewing and approving proposed IOU procurement.³

California's retail electricity prices rank among the highest in the nation.⁴ San Francisco appreciates that electricity retail prices are driven by many factors. High prices may be due in part to California's ambitious renewable portfolio standard ("RPS"), although other Western states have also adopted RPS requirements without triggering the very high retail electricity prices that exist in California.⁵ Nonetheless, the bottom line is that California has both among the highest retail electricity prices in the country and an extremely obscure process for approval of IOU procurement, and this combination is not reassuring to consumers.

San Francisco in particular applauds staff's proposal to require publication of IOU contract prices in draft and final resolutions, prior to contract approval by the CPUC.⁶ As the

¹ MEA Opening Comments at 4-5; DRA Opening Comments at 2; GPI Opening Comments at 1 and 2.

² MEA Opening Comments at 4-5.

³ GPI Opening Comments at 5-6.

⁴ US Energy Information Administration, Electric Power Monthly with Data for June 2013, Table 5.6.A (August 2013).

⁵ According to the US Energy Information Administration California's average retail electric rates are the third highest in the nation behind only Hawaii (32.93 cents/kWh) and Alaska (16.46 cents/kWh). Electric Power Monthly with Data for June 2013, Table 5.6.A (August 2013) (http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_5_06_a). See also Data Base of State Incentives for Renewables and Efficiency, Summary Maps: RPS Policies (http://www.dsireusa.org/documents/summarymaps/RPS_map.pdf).

⁶ The Opening Comments of the Alliance for Retail Energy Markets contains extensive discussion of the legality of requiring Energy Service Providers ("ESP") to provide information about their procurement. San Francisco has not researched this matter, but notes that bundled

Energy Division explained in its proposal, at that point in the IOUs' procurement process, negotiations about the project in question are over. Moreover, the RPS market has matured sufficiently to no longer warrant the level of confidentiality that currently exists.⁷ It is worth noting that municipal utilities undertake electricity procurement publicly, yet many California municipal utilities have been able to provide electric service to their customers at competitive prices. For example, the Sacramento Municipal Utility District's ("SMUD") retail electric prices are below PG&E's retail electric prices⁸ even though in 2011 SMUD's energy mix was 22% renewable,⁹ whereas in that year PG&E's energy mix was only 19% renewable.¹⁰ Accordingly, claims that greater price transparency during the IOU contract approval process will result in increased prices for ratepayers are not credible.

Finally, San Francisco believes that DRA's concern that the bioenergy market may not yet be sufficiently mature, and hence may merit additional confidentiality,¹¹ can be addressed by providing more pricing confidentiality to this particular market sector. However, exemptions to the requirement for transparency should not be allowed to swallow up the rule.

customers are not required to pay for the above-market costs of ESP procurement. Accordingly, the question of the transparency of ESP procurement is of less concern to San Francisco.

⁷ ALJ Ruling at 20.

⁸ See SMUD PG&E rate comparison at: <https://www.smud.org/en/residential/customer-service/rate-information/rate-comparison.htm>.

⁹ See SMUD Power Content Label at:

<https://www.smud.org/en/residential/environment/greenergy/documents/PowerContentLabel.pdf>; the most recent power content labels at the California Energy Commission website are for 2011.

¹⁰ See PG&E Power Content Label at:

http://www.energy.ca.gov/sb1305/labels/2011_labels/PGE_PCL.pdf

¹¹ DRA Opening Comments at 3.

II. SAN FRANCISCO AGREES WITH MEA AND CEERT THAT GREATER TRANSPARENCY IS ALSO NEEDED FOR FOSSIL FUEL PROCUREMENT

CEERT objects to making renewables procurement subject to greater transparency than fossil fuel procurement.¹² CEERT expresses a deep concern that renewables procurement is already burdened with significantly greater requirements than fossil fuel procurement and suggests that if confidentiality rules are revised, revisions should be applicable to fossil procurement also. MEA notes that “the Commission should advance the transparency of IOU procurement made for their customers, both for RPS eligible procurement and for more conventional procurement.”¹³

San Francisco agrees with MEA and CEERT that renewables procurement should not be singled out for greater transparency; rather all IOU procurement should be sufficiently public to allow for more effective participation in the process by stakeholders. The Energy Division’s rationale for greater transparency in renewables procurement applies also to fossil fuel procurement; the fossil fuel market is certainly at least as mature as the renewables market.

¹² CEERT Opening Comments throughout.

¹³ MEA Opening Comments at 3-4.

III. CONCLUSION

San Francisco supports (i) the Energy Division's proposal to make IOU renewables procurement more transparent, and (ii) extending such transparency to IOU fossil fuel procurement.

August 27, 2013

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