BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewable Portfolio Standard Program.	Rulemaking 11-05-005 (Filed May 5, 2011)

COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES ON ALTERNATE PROPOSALS FOR A METHODOLOGY TO IMPLEMENT PROCUREMENT EXPENDITURE LIMITATIONS FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM

IRYNA A. KWASNY
Attorney for the Office of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-1477
iryna.kwasny@cpuc.ca.gov

YULIYA SHMIDT
DAVID SIAO
Analysts for the Office of Ratepayer Advocates

California Public Utilities Commission
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-2719
Yuliya.shmidt@cpuc.ca.gov

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I. INTRODUCTION

The Office of Ratepayer Advocates (ORA) respectfully submits these comments on two alternative proposals for a methodology to implement procurement expenditure limitations (PEL) for the Renewables Portfolio Standard (RPS) program: one by Southern California Edison (SCE), and the second by the California Large Energy Consumers Association (CLECA), the Energy Producers and Users Coalition (EPUC), and the California Manufacturers and Technology Association (CMTA) submitted on September 26, 2013.

Both sets of parties correctly note that the PEL methodology should prevent disproportionate rate impacts, per Public Utilities Code Section 399.15(d)(1).[1] However, ORA finds that the two alternate proposals may not achieve this goal and thus, opposes both proposals.

II. DISCUSSION

A. SCE's Alternate Proposal Relies on a Calculation of the Cost of Non-Renewable Generation That May Not Reflect Today's Non-Renewable Offers

SCE proposes a methodology that would compare each contract's price to the investor owned utility's (IOU's) Acceptable Renewable Rate (ARR). The ARR would be used to develop an Acceptable Renewable Budget (ARB) which would be compared to the IOU's total renewable expenditures. The ARR would be set for each year by: 1) subtracting RPS costs from the Generation Revenue Requirement and then dividing that result by the difference between the IOU's bundled retail sales and its RPS generation, and 2) adding a 25% renewable buffer to that result.[2] Future years' ARRs would be calculated by escalating the current year's ARR by 2.75%.[3] SCE proposes calculating the ARR for a ten-year window and recalculating every five years for the next ten-year window.[4]

This proposal obviates the IOUs' need to execute any RPS contracts which are over the ARR but permits them to do so voluntarily, especially if the Least Cost Best Fit (LCBF)

[1] PU Code 399.15 (d)(1) states: "(d) In developing the limitation pursuant to subdivision (c), the commission shall ensure all of the following: (1) The limitation is set at a level that prevents disproportionate rate impacts."

[2] SCE Alternate Proposal, p. 3.

[3] SCE Alternate Proposal, p. 4.

[4] SCE Alternate Proposal, p. 4.

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evaluation shows the offer to be a good value for ratepayers.[5] In addition, the ARB for each IOU would be set by multiplying the ARR by the adjusted renewable net short (RNS) for the next ten years.[6] SCE's proposal would have the RNS be refreshed every two years.[7]

An IOU's RPS expenditures would be tracked and compared to its ARB during each advice letter filing and in the RPS procurement plans.[8] Once an IOU meets or exceeds 95% of its ARB, it would have to show the measures it has taken to stay within its budget, if it is likely to exceed it, and if it should continue to procure RPS resources.

SCE's proposal does not estimate the ARR dollar amount, making it difficult to fully evaluate the reasonableness of the proposed ARR. ORA anticipates a more thorough discussion of SCE's proposed methodology at the November 20-21 workshop, including data to help parties understand the reasonableness of the proposal and the impact of implementing the ARR and the ARB on RPS contracting.

ORA agrees with SCE that "in order to provide the meaningful customer cost protection envisioned by the Legislature, the Commission must establish clear rules that provide IOUs with the ability to halt RPS procurement once their procurement expenditure limitations are reached."[9] But ORA cannot comment on whether SCE's proposal for procuring additional RPS-eligible resources once the PEL is reached – that they not exceed the IOU's non-renewable generation-related rate – is reasonable without an estimate of the rate in dollars. As ORA noted in its opening comments, a de minimis rate increase is not incurred by a renewable purchase when it is priced competitively with a non-renewable purchase.[10] Without data, it is not clear that the non-renewable generation-related rate is the correct metric on which to base the ARR.

SCE proposes to calculate the non-renewable rate by taking the entire revenue requirement associated with non-renewable generation and dividing it by the generation associated with those non-renewable resources. But that stack of non-renewable resources

[5] SCE Alternate Proposal, p. 5.

[6] SCE Alternate Proposal, p. 5.

[7] SCE Alternate Proposal, p. 6.

[8] SCE Alternate Proposal, p. 7.

[9] SCE Alternate Proposal, p. 8.

[10] See p.13-14 of the ORA Comments on the Staff Proposal filed on September 26, 2013.

includes generation which skews the average price of non-renewable generation, making the entire stack a poor benchmark for future renewable generation. For example, old, fully depreciated facilities and resources entered the portfolio under special tariffs such as the qualifying facility (QF) and combined heat and power (CHP)-related standard contracts. The pricing of depreciated facilities would likely be very low while the pricing of QF facilities, depending on the year of the QF contract, may be quite high. Neither of these contributes to a realistic price benchmark for a new renewable resource now entering an IOU's portfolio. Rather than using an average price which may be distorted because it is derived from resources which are either priced very low or very high, a more reasonable comparison for a new purchase of a renewable resource may be the concurrent new purchase of a non-renewable resource, such as a combined cycle gas turbine.

Finally, setting an administratively calculated, publicly known non-renewable price raises some fundamental problems. First, it will likely distort prices and the behavior of market participants in the same way that the Market Price Referent (MPR) did in years past. Second, a single administrative price cannot reflect the current market price of all renewable technologies, and may encourage developers to bid up to the ARR instead of submitting their most competitive bid. Third, the administratively set price will inevitably be an artificial, inaccurate and often out-of-date metric that prevents the marketplace from being truly competitive.[11]

B. The Alternate Proposal of CLECA, EPUC, and CMTA Does Not Account for Potential Banking and is Fundamentally Flawed

CLECA, EPUC and the CMTA (collectively, Large Users) raise legitimate concerns regarding the potential impact of renewable procurement on ratepayers, and assert that "protection against excessive costs and disproportionate ratepayer impacts must be paramount, not promotion of renewables procurement for RPS at any cost"[12] ORA agrees. While a PEL methodology should be flexible enough to allow the IOUs to contain costs over the long run, the Large Users' proposal is unlikely to contain long-term costs or be practical to implement because

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[11] For a more thorough discussion of these issues, see p.7-8 of the ORA Comments on the Staff Proposal filed on September 26, 2013.

[12] Comments of the California Large Energy Consumers Association, the Energy Producers and Users Coalition, and the California Manufacturers and Technology Association Large Users Comments (Large Users Comments), p. 19.

it does not consider fundamental elements of the RPS framework, such as banking or multi-year compliance periods.

The Large Users propose three major changes to the proposed staff methodology. The first recommends replacing the rolling average PEL over a 10-year period with fixed annual periods. The second proposes not using a ratio of RPS costs to revenue requirement but to focus only on RPS costs by calculating the average of the previous three years' total recorded RPS costs. The third recommends calculating the PEL for a given year as the product of "a three year historical average of recorded [RPS] costs" and an annualized RNS averaged from the five following years. If the cost of incremental RPS procurement for the given year exceeded this product, then Large Users propose that the Commission find a disproportionate impact.[13]

The Large Users' proposed methodology is very narrowly focused, ignores banking, and will likely be ineffective in containing costs in the long run. The IOUs must have the flexibility to deal with annual variations in renewable generation, strategically procure generation resources, and bring them online or bank the renewable energy credits (RECs) as needed or as is cost-effective. This combination of strategies will ultimately result in lower costs for ratepayers. Senate Bill (SB) 2 (1X) emphasized multi-year compliance periods over annual targets[14] to provide IOUs the flexibility to procure and bank RECs as needed to meet future compliance obligations.[15] Forcing IOUs to focus on complying with short-term, annual restrictions is contrary to the intent of SB 2 (1X) and may have the perverse result of driving up costs through suboptimal procurement strategies. Flexibility aside, several major methodological flaws make the Large Users' proposed methodology infeasible and could force the IOUs to procure in ways that do not prioritize long-term costs.

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[13] Large Users Comments, p. 4-5.

[14] PU Code 399.15 (b)(1) establishes these compliance periods. Further, PU Code 399.15 (b)(2)(C) states: "Retail sellers shall be obligated to procure no less than the quantities associated with all intervening years by the end of each compliance period. Retail sellers shall not be required to demonstrate a specific quantity of procurement for any individual intervening year."

[15] Pages 14-15 of D. 11-12-020 state that: "In SB 2 (1X), the Legislature responded in several ways to the issue of "lumpy" RPS procurement raised by the three large utilities in their comments in response to the Ruling. Most notably, SB 2 (1X) replaces the annual RPS procurement target with a multi-year compliance period."

First, limiting incremental RPS procurement by the RNS is infeasible, as incremental RPS procurement is used in part to calculate the RNS. Existing and incremental RPS procurement reduce the RNS; the greater the sum of both, the smaller the RNS number. This methodology, however, would limit the amount of incremental RPS procurement by an average, annualized amount of RNS, which clearly conflicts with how incremental RPS procurement determines the RNS. For example, if an IOU were to reduce its RNS to zero by having sufficient existing and incremental RPS procurement to meet its RPS obligations, then the proposed methodology would by definition allow the IOU zero incremental procurement, unless such procurement were free.

Second, where an IOU has a renewable net surplus, the proposed methodology would force it to incur additional costs. The Large Users' proposed methodology would limit the cost of "forecast[ed] incremental RPS procurement"[16] in a given year to an average annualized RNS. With a negative renewable net short (i.e., renewable surplus), IOUs would be forced to reduce existing procurement and reschedule generation that is due to come online in a given year, or face non-compliance with the proposed methodology. This is not hypothetical: the IOUs have a renewable net surplus rather than a renewable net short for the next several years.[17] They would incur significant costs, while their ability to plan for long-term compliance needs and protect ratepayers would be significantly affected.

Third, some incremental procurement is already under contract and in development with set online dates. The Large Users' proposed methodology may force IOUs to cancel or reschedule this procurement to remain in compliance, incurring additional legal exposure and costs. The Large Users' proposed methodology narrowly focuses on annual incremental costs, while the staff proposal sets a limit on total RPS costs (online procurement, procurement in development, and the RNS) over a period of 10 years.[18] Practically, incremental procurement for the next few years has already been determined through Commission-approved power purchase agreements (PPAs) in the past several years. Canceling or rescheduling such procurement in

[16] Large Users Comments, p. 5.

[17] RPS Renewable Net Short (RNS) Methodology presentation, presented by ED staff on June 12, 2012. Slide 4.

[18] Staff proposal, issued July 23, 2013, Attachment D, Table 1, p. D-2.

order to remain in compliance with the proposed methodology would inevitably incur legal exposure and costs, and unfairly punish IOUs and most importantly, ratepayers.

Fourth, the Large Users' proposed methodology limits the IOUs' ability to cost-effectively plan for large increases in the RNS. While the IOUs have a renewable net surplus in the near term, the RNS is projected to increase dramatically in 2021.[19] Recent IOU solicitations have acknowledged this by preferring generation that will begin delivering energy and RECs closer to when they are needed.[20] A large amount of incremental procurement in 2021, however, would likely cause the IOUs to violate the Large Users' proposed methodology. Regardless of projected surpluses and the associated methodological problems, to avoid violating the PEL in 2021 with a large amount of incremental amount of procurement, IOUs would be forced to spread out procurement several years before 2021, leading ratepayers to prematurely incur the costs of the procurement before it is needed.

Fifth, the Large Users' proposed methodology does not account for the cost of increasing RPS targets. The RNS is merely a measure of IOU procurement relative to need, and does not reflect what an IOU is required to procure in any given time frame. The RNS does not account for the increase in the IOU's RPS procurement obligations or the likely associated increase in total costs in any way. This may result in an IOU exceeding the proposed PEL merely through meeting its RPS targets. For example, the 2020 PEL ratio would be calculated from the average total costs of the years 2016 - 2018. However, the average RPS target for 2016-2018 is 27 percent, while the RPS target for 2020 is 33 percent. The difference in the amount of annual procurement required is over 20 percent.[21] The proposed methodology in no way considers nor accommodates this increase, and may force IOUs to choose between meeting PEL and meeting RPS procurement obligations.

[19] RPS Renewable Net Short (RNS) Methodology presentation, presented by ED staff on June 12, 2012. Slide 4.

[20] PG&E Draft 2013 Renewable Energy Procurement Plan, submitted June 28, 2013, states: "To meet its long-term RPS needs… PG&E generally prefers long-term Category 1 offers with contract start dates in 2020 or later" (p. 19). SCE Draft 2013 Renewable Energy Procurement Plan, submitted June 28, 2013, states: "SCE does not have a short-term renewable procurement need, but it does anticipate a longer term need for additional RPS-eligible energy in the third compliance period and beyond" (p. 7). SDG&E Draft 2013 Renewable Energy Procurement Plan, submitted June 28, 2013, states that it may have additional procurement need in Compliance Period 3, and is "contemplating" purchases in 2021 (p. 14-15).

[21] 33 is 20 percent greater than 27; i.e., 33/27 = 1.222, or 22 percent.

Finally, the Large Users' methodology appears to mistakenly assume that RPS procurement costs incurred in a given year are proportionate to that year's cost of RPS compliance. To the contrary, D. 12-06-038 states that "the quantity of contracts signed is not necessarily related to the procurement required to meet the procurement quantity requirement for a compliance period." [22] Again, this is due to an IOU's ability to bank current procurement against future RPS obligations, which the proposed methodology fails to consider.

III. CONCLUSION

The ORA opposes the alternate PEL proposals of SCE and the Large Users because their analytical flaws are likely to adversely affect ratepayers.

Respectfully submitted,

<u>/s/ IRYNA A. KWASNY</u>
IRYNA A. KWASNY

Attorney for
Office of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Telephone: (415) 703-1477
E-Mail: iryna.kwasny@cpuc.ca.gov

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[22] Decision 12-06-038, issued June 21, 2012; p. 38.

VERIFICATION

I, Iryna A. Kwasny, am counsel of record for the Office of Ratepayer Advocates in proceeding R.11-05-005, and am authorized to make this verification on the organization's behalf. I have read the **COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES ON ALTERNATE PROPOSALS FOR A METHODOLOGY TO IMPLEMENT PROCUREMENT EXPENDITURE LIMITATIONS FOR THE RENEWABLE PORTFOLIO STANDARD PROGRAM** filed on October 23, 2013. I am informed and believe, and on that ground allege, that the matters stated in this document are true. I declare under penalty of perjury that the foregoing are true and correct.

Executed on October 23, 2013 at San Francisco, California.

IRYNA A. KWASNY
Staff Counsel

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