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)

COMMENTS OF THE INDEPENDENT ENERGY PRODUCERS ASSOCIATION ON ALTERNATIVE PROPOSALS FOR A METHODOLOGY TO IMPLEMENT PROCUREMENT EXPENDITURE LIMITATIONS FOR THE RPS PROGRAM

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On July 23, 2013, Administrative Law Judge (ALJ) Anne Simon issued a ruling inviting comments on a proposal developed by the Energy Division (ED) staff for a methodology to implement a procurement expenditure limitation (PEL) framework for the Renewables Portfolio Standard (RPS) program. In addition, the ruling invited parties to submit alternative expenditure limitation proposals. On September 26, 2013 two alternative procurement expenditure limitation methods were proposed by 1) the California Wind Energy Association (CalWEA) and the Large-scale Solar Association (LSA), jointly, and 2) Southern California Edison Company (SCE). The Independent Energy Producers Association (IEP) offers the following comments on the two alternative proposals.[1]

I. THE CALWEA/LSA PROPOSAL

The Energy Division's proposed PEL framework does not directly address the issue of how the Commission would determine whether RPS procurement would result in a

[1] IEP addresses the Energy Division proposal in comments filed on September 26 and in reply comments filed today. As stated in IEP's reply comments, the ED staff proposal establishes a method for determining a PEL that is relatively straightforward to develop and to implement. This approach provides regulatory flexibility while satisfying statutory requirements regarding establishment of an RPS procurement expenditure limitation.

disproportionate rate impact. Instead, the proposal leaves it to the Commission's discretion to determine the level of the PEL that would avoid a disproportionate rate impact. In IEP's view, it is appropriate for the Commission to have such discretion. If, however, the Commission wants a methodology that more explicitly addresses whether the mandated level of RPS procurement would result in disproportionate rate impacts, then of the two alternative proposals submitted for comment, the alternative approach offered by CalWEA and LSA is the preferred method for assessing the conditions that could lead to disproportionate rate impacts.

As IEP pointed out in opening comments, to determine whether a particular PEL would be expected to prevent disproportionate rate impacts, the Commission must consider the value of the non-price benefits provided by renewable energy (such as hedging and supply diversity value, environmental, economic and other benefits) and evaluate whether the costs are disproportionately high relative to the value of the procured resources. Focusing narrowly on rate impacts could lead the Commission to improperly ignore (1) the non-price benefits that accrue to ratepayers from procurement of energy from RPS-eligible resources and (2) the rate impacts of alternative procurement approaches.

Assessing the total costs and benefits of renewable energy compared to alternative procurement strategies is a complex exercise, but to the extent the Commission chooses to pursue this approach, the proposal from CalWEA and LSA provides a method that explicitly addresses the question "in proportion to what?" when considering whether the rate impacts of the RPS program are disproportionate. CalWEA and LSA's answer is that the Commission should consider "rate impacts in proportion to future costs without the RPS mandate."[2] IEP agrees that the "No RPS Mandate" scenario is the appropriate point of reference for evaluating proportionate rate impacts.

[2] CalWEA and LSA's Alternate Proposal, pp. 5-6.

To construct the reference case used in CalWEA/LSA's PEL method, only the 33% RPS mandate would be removed. All of the other requirements for procurement of energy and capacity, the loading order established in the Energy Action Plan, least-cost best-fit rules for selecting supply resources, and, most importantly, compliance with Assembly Bill (AB) 32 greenhouse gas (GHG) emission limits, would remain in place. Thus, the non-price benefits that are necessary to consider when evaluating whether RPS costs result in disproportionate rate impacts are largely internalized in the CalWEA/LSA reference case. To the extent that there are additional costs of meeting the 33% RPS mandate beyond those incurred in the reference case, the CalWEA/LSA approach provides a way of measuring that relative rate impact and providing a basis for the Commission to determine whether the rate impact is disproportionate.

The CalWEA and LSA approach updates and expands the RPS Calculator to provide the inputs and calculations necessary to determine future procurement costs under both the 33% RPS scenario and the No RPS Mandate scenario. In addition to forecasting renewable energy costs, the calculator would also need to include GHG allowance prices and volume constraints consistent with AB 32 compliance. The No RPS Mandate scenario would assume all-source procurement is employed to meet utility resource needs subject to all requirements other than the 33% RPS. IEP supports the use of base, high and low natural gas price scenarios to determine the optimal portfolio mix under different fuel price forecasts and to account for the hedge value of renewable resources.

IEP anticipates that the forecast assumptions and analyses necessary to implement the CalWEA and LSA approach will be subject to disagreement among parties in this proceeding. CalWEA and LSA acknowledge that substantial work would be required to implement the recommended approach and suggest that the Commission should hire a consultant to assist Energy Division in updating and expanding the RPS Calculator. IEP agrees that additional work on fleshing out the proposed method should be performed early in the process to attempt to achieve consensus on the models and assumptions.

The July 23, 2013 ruling requesting comments indicated that there will be workshops to consider details of the staff and alternate proposals, after which there would be an additional opportunity for parties to submit comments. IEP intends to participate in those workshops and will provide additional comments on the CalWEA and LSA proposal at that time.

II. SCE'S ALTERNATIVE PROPOSAL

In contrast to the CalWEA/LSA proposal, the alternative approach proposed by SCE fails to provide a reasonable basis for evaluating the relative cost impacts of meeting the 33% RPS mandate. SCE proposes an Acceptable Renewable Rate (ARR) that is based on the utility's non-RPS generation revenue requirement adjusted upward by 25% to provide a "renewable buffer." The ARR would be calculated by taking the utility's total generation revenue requirement and subtracting RPS costs. The resulting non-renewable generation revenue requirement would then be divided by the amount of bundled retail sales not met by RPS generation to determine a $/MWh rate. That average rate would then be multiplied by 1.25 to calculate the ARR. The ARR in future years would be calculated assuming a 2.75% escalation rate.

Expressed as a formula, IEP understands SCE's proposal for the ARR to be:

$$\text{ARR (\$/MWh)} = \frac{[\text{Generation Revenue Requirement (\$) - RPS Costs (\$)}] * 1.25}{[\text{Retail Sales (MWH) - RPS purchases (MWH)}]}$$

The ARR would serve two functions: 1) the ARR would be used to evaluate the price of individual RPS contracts prior to execution and 2) the ARR would be multiplied by the renewable net short quantities for each year over a ten-year period to develop an Acceptable Renewable Budget (ARB) for use in evaluating a utility's total RPS portfolio.

By proposing to apply the ARR to the evaluation of individual contracts, SCE is essentially resurrecting the Market Price Referent (MPR) approach that was used at the outset of the RPS program but that was eliminated by Senate Bill (SB) 2 (1X). Instead of the MPR, SB 2 (1X) directs the Commission to adopt a limitation on expenditures for "**all** eligible renewable energy resources" used to comply with the RPS[3]—a portfolio limitation rather than a measure of the reasonableness of individual RPS contracts. It is not appropriate to use the procurement expenditure limitation called for in Public Utilities Code section 399.15(c) through (g) for any purpose other than to determine whether a utility's total RPS procurement falls within that limit. SCE's proposed ARR should not be used to determine which individual RPS contracts should or should not be executed by the utility.

SCE further errs when it uses the ARR to develop the Acceptable Renewable Budget, or RPS cost cap. When describing the ARB, SCE relies on a flawed comparison to determine whether there would be disproportionate rate impacts: "In order to determine whether or not this ARB creates disproportionate rate impacts, SCE suggests the appropriate comparison is to what would have happened absent renewable procurement."[4] To do this, SCE would "remove all renewable costs and replace the energy associated with those renewables at a cost of the Non-Renewable GRR [generation revenue requirement]."[5]

There are two flaws in SCE's proposal. First, the appropriate comparison is not to what would have happened absent renewable procurement, but rather what would have happened absent a specific renewable procurement **<u>mandate</u>.** There are compelling reasons why utilities

[3] Public Utilities Code § 399.15(c).
[4] SCE's Alternate Proposal, p. 9.
[5] SCE's Alternate Proposal, pp. 9-10.

would continue to procure renewable energy even in the absence of an RPS requirement, most notably to minimize costs of compliance with GHG emissions caps. Thus, it is inappropriate to remove all renewable energy costs from the reference case to which the RPS costs are compared. The addition of an arbitrary "renewable buffer" does little to repair a conceptually flawed proposal.

Second, even if all costs of RPS-eligible resources were to be removed from the reference case, it is unreasonable to assume that the renewable energy and capacity would be replaced at the average cost of the utility's existing conventional generation revenue requirement. For example, the generation revenue requirements of Pacific Gas and Electric Company and SCE include costs for large hydroelectric facilities that are not eligible to meet the RPS and are not likely to be expanded to provide additional capacity and energy beyond current levels. It would be wrong to assume that these existing resources are a suitable proxy for the cost of new resources added to replace renewable resources removed from the reference case.

IEP is concerned that the approach and specific assumptions proposed by SCE will thwart the legislative intent and will produce RPS cost caps that are artificially low, even after including an arbitrary 25% renewable buffer. The effect of a low ARR and ARB would be to introduce a selection bias in favor of the lowest-cost renewable resources, regardless of whether least-cost, best-fit principles recommend a portfolio that includes higher-cost resources.

SCE admits that the ARR and ARB could be set at levels higher than recommended by SCE without resulting in disproportionate rate impacts. SCE has proposed to limit rate impacts to a maximum of 5%, while acknowledging that some jurisdictions have concluded that rate impacts of up to 10% or more are not disproportionately high. In fact, the study cited by SCE shows that almost 40% of states with RPS cost caps set the RPS cost caps at levels that result in more than a 5% effective increase in retail rates.[6] SCE calculates that the ARR with a 25% renewable buffer would result in a 3.6% increase in system average bundled rates over a 10-year period.[7] Thus, SCE is proposing an RPS cost cap that is lower than the level that SCE believes would result in disproportionate rate impacts and significantly lower than rate impacts considered reasonable in many other jurisdictions.

III. <u>CONCLUSION</u>

IEP respectfully asks the Commission to consider these comments as it develops a cost containment methodology for RPS procurement expenditures in compliance with the requirements of Public Utilities Code section 399.15.

Respectfully submitted this 23rd day of October, 2013 at San Francisco, California.

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[6] Galen Barbose, Lawrence Berkeley National Laboratory, Renewables Portfolio Standards in the United States: A Status Update, 2012 National Summit on RPS (December 3, 2012), p. 31.
[7] SCE's Alternate Proposal, p. 10.

VERIFICATION

I am the attorney for the Independent Energy Producers Association in this matter. IEP is absent from the City and County of San Francisco, where my office is located, and under Rule 1.11(d) of the Commission's Rules of Practice and Procedure, I am submitting this verification on behalf of IEP for that reason. I have read the attached "Comments of the Independent Energy Producers Association on Alternative Proposals for a Methodology to Implement Procurement Expenditure Limitations for the RPS Program," dated 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 is true and correct.

Executed on this 23rd day of October, 2013, at San Francisco, California.

/s/ Brian T. Cragg
Brian T. Cragg

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