

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
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES
ON THE PROPOSED DECISION ON 2013 RPS PLANS**

November 12, 2013 SARA STECK MYERS

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The Center for Energy Efficiency and Renewable Technologies (CEERT) respectfully submits these Reply Comments on the Proposed Decision Conditionally Accepting 2013 Renewables Portfolio Standard (RPS) Procurement Plans and Integrated Resource Plan and On-Year Supplement (Proposed Decision). These Reply Comments are timely filed and served pursuant to Article 14 and Rule 1.15 of the Commission's Rules of Practice and Procedure and the instructions accompanying the Proposed Decision.¹

**I.
AS THE OPENING COMMENTS OF SEVERAL PARTIES MAKE CLEAR, THE
PROPOSED DECISION SHOULD BE MODIFIED ON SEVERAL KEY POINTS.**

While CEERT did not file Opening Comments, it agrees with multiple parties that modification of the Proposed Decision is required on certain key issues. Namely, as detailed below, CEERT agrees that the Proposed Decision should be modified to (1) adequately address the treatment of procurement of excess energy, (2) address a least-cost best-fit (LCBF) methodology and demonstrate how integration costs should be identified and allocated, and (3) promote renewable diversity, including proper evaluation of all Imperial Valley renewable resources.

¹ By Rule 1.15, when "a statute or Commission decision, rule, order, or ruling sets a time limit for performance of an act," if the due day falls on a "holiday or other day when the Commission officers are closed, the time limit is extended to include the first day thereafter." Because the due date for Reply Comments on the Proposed Decision was November 11, 2013 (Veteran's Day), a State holiday, these Reply Comments have been served and filed "the first day thereafter" (November 12, 2013).

A. IEP and LSA Appropriately Urge Modification of the Proposed Decision to Adequately Address the Treatment of Excess Energy.

CEERT has continuously argued that the 33% RPS requirement is “a floor, not a ceiling” and this concept has since been codified in the passage of Assembly Bill 327 (Perea), which, among other things, allows the Commission to require “procurement of eligible renewable energy resources in excess” of 33%.² Thus, the procurement of excess renewable energy is now a distinct possibility, but is not adequately addressed by the Proposed Decision.

CEERT, therefore, agrees with the Independent Energy Producers Association (IEP) that “the [Proposed Decision’s] treatment of excess generation should be reconsidered.”³ Similarly, Large-Scale Solar Association (LSA) correctly states that “the Commission has the authority to authorize additional renewable procurement and in this decision.”⁴

In addition, as IEP notes, the Proposed Decision’s two limitations on excess energy (one for Settlement Intervals and one for annual generation) “fail to accommodate the fact that renewable generation technologies are not conducive to precise forecasting.”⁵ CEERT agrees with IEP that the Proposed Decision’s limitation during a Settlement Interval “should be rejected” and that a “utility should not receive the value of generation and capacity for which it does not fully compensate the generator.”⁶ To that end, IEP appropriately proposes:

“If a renewable generator is shown to be directly responsible for imbalance penalties imposed on the utility for unbalanced schedules, then that renewable generator should bear its fair share of the penalty. On the other hand, if the utility retains the imbalance rewards associated with deliveries from renewable resources, the generator should not receive a reduced payment (much less a zero payment) for excess deliveries.”⁷

CEERT further concurs with IEP that the limitation on excess annual generation is also not justified.⁸ IEP correctly notes that it is contrary to public policy to penalize “renewable generators for improving the generating efficiency of their facilities.”⁹ CEERT agrees with IEP

² CEERT’s Opening Comments on IOU 2013 RPS Plans and ACR New Proposal, dated July 12, 2013; see also Governor’s Signing Statement for SB 1X 2 (4/12/11) (http://gov.ca.gov/docs/SBX1_0002_Signing_Message.pdf); Assembly Bill 327 (Perea).

³ IEP Opening Comments, at p. 1.

⁴ LSA Opening Comments, at p. 3.

⁵ IEP Opening Comments, at pp. 1-2.

⁶ *Id.*, at p. 5.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

that when a renewable generator’s output meets the annual expected energy, “the utility may either (1) continue to purchase the excess energy at the contract rate, or (2) allow the generator to sell its excess generation to another buyer for the remainder of the year.”¹⁰

B. Multiple Parties Correctly Urge Modification of the Proposed Decision on the Issues of the LCBF Methodology and Integration Costs.

In its Opening Comments on the IOU 2013 RPS Plans and ACR New Proposal, CEERT voiced its concerns regarding the Commission’s failure to address the LCBF methodology, “especially on such critical components as ‘Time of Delivery (TOD) rates and consideration of ‘integration costs’ or ‘curtailment,’ leaves open these issues to uncertainty and discretionary resolution by the IOUs.”¹¹ In their Opening Comments on the Proposed Decision, multiple parties, including IEP, Green Power Institute (GPI), Calpine Corporation (Calpine), and Ormat Technologies, Inc. (Ormat), remain concerned that the Proposed Decision has still not adequately addressed this issue.¹²

Specifically, these parties urge the Commission to promptly address LCBF review, including components such as cost adders and integration costs, as well as time of delivery (TOD) rates. Thus, each of these parties seek direction by the Commission in this Proposed Decision to specifically identify the process and next steps to do all of the following: (1) “ identify renewables integration costs and to develop a method to allocate those costs;”¹³ (2) identify when the LCBF overhaul will occur and “initiate the process as quickly as possible.”¹⁴; (3) provide a “clear procedural vehicle” for establishing guidelines for determining integration costs;¹⁵ and (4) examine TOD profiling and methodologies in an open, public process.¹⁶

The failure to prioritize and create clear next steps on each of these issues has and will continue to create unnecessary uncertainty and information barriers for renewable development and procurement. As noted by IEP, the “integration costs associated with a specific project or location is important information that should be incorporated in the least-cost/best-fit (LCBF)

¹⁰ IEP Opening Comments, at p. 6.

¹¹ CEERT Opening Comments on IOU 2013 Plans and ACR New Proposal, filed July 12, 2013, at pp. 10-11.

¹² IEP Opening Comments, at p. 1; GPI Opening Comments, at p. 6; Calpine Opening Comments, at pp. 2-3; Ormat Opening Comments, at p. 3.

¹³ IEP Opening Comments, at p. 1.

¹⁴ GPI Opening Comments, at p. 6.

¹⁵ Ormat Opening Comments, at pp. 3, 5.

¹⁶ GPI Opening Comments, at p. 3; LSA Opening Comments, at p. 6.

evaluation of responses to a competitive solicitation.”¹⁷ Thus, instead of “referring parties to other proceedings or issuing general statements that integration costs ‘will be reviewed when we examine LCBF methodologies later in this proceeding,’ the Commission should give this issue priority and set a firm schedule for public consideration of this issue at the Commission that will enable the Commission to render a decision on a methodology for evaluating integration cost as part of bid evaluation by no later than the summer of 2014.”¹⁸ Relative to TOD issues, LSA notes that “[d]espite promises last year in D.12-11-016 that the TOD methodologies would be reviewed and vetted in this proceeding, this has not occurred and parties continue to lack sufficient information to evaluate either the methodologies used or the changes proposed.”¹⁹

CEERT urges the Commission to address these concerns by modifying the Proposed Decision to clearly identify how and when LCBF, integration costs, and TOD methodologies will be addressed and has offered its proposals to that end in Appendix A hereto. Failure to resolve these issues quickly will continue to adversely affect renewable development in California.

C. The Proposed Decision Must be Modified to Ensure Renewable Resource Diversity, Including Proper Evaluation of All Imperial Valley Resources.

CEERT has long advocated for the “procurement from a diverse mix of renewable resource types and technologies” in the RPS program, a step that requires appropriate valuation of the benefits, including those related to grid reliability, of each resource by type, technology, and location.²⁰ CEERT agrees with GPI that “resource diversity, a guiding principle, is missing” or “rapidly disappearing” from the California RPS program and that, in response, the value of “resource and technology diversity” should “be a part of all post-2013 RPS solicitations.”²¹

One means of doing so now, as CEERT has consistently urged, is that the Commission can and should “adopt ‘remedial measures’ that will appropriately value and further procurement of Imperial Valley renewable resources.”²² The Proposed Decision again declines to do so,²³ despite the fact, as GPI state states, the Proposed Decision acknowledges that there is no geothermal energy in San Diego Gas and Electric Company’s (SDG&E’s) portfolio of Imperial

¹⁷ IEP Opening Comments, at p. 3.

¹⁸ Id.

¹⁹ LSA Opening Comments, at p. 6.

²⁰ CEERT Opening Comments on IOU RPS Plans and ACR New Proposal, filed July 12, 2013, at p. 3.

²¹ GPI Opening Comments, at pp. 4-5.

²² CEERT Opening Comments on IOU RPS Plans and ACR New Proposal, filed July 12, 2013, at p. 14.

²³ Proposed Decision, at p. 11.

Valley contracts.²⁴ There is clearly still room for the Commission, as proposed in Appendix A, to change that outcome and provide measures to *include*, not continue to exclude, Imperial Valley renewable resources in all of the utilities' RPS portfolios, especially SDG&E.

II. CONCLUSION

CEERT appreciates the opportunity to offer its reply comments on the Proposed Decision. Namely, as discussed above, CEERT agrees that the Proposed Decision should be modified to (1) adequately address the treatment of procurement of excess energy, (2) address a least-cost best-fit (LCBF) methodology and demonstrate how integration costs should be identified and allocated, and (3) promote renewable diversity, including proper evaluation of all Imperial Valley renewable resources.

However, CEERT notes that the modifications to the Proposed Decision recommended by several parties in their Opening Comments and supported by CEERT in these Reply Comments were not included in specific Proposed Findings of Fact, Conclusions of Law, or Ordering Paragraphs. Due to this circumstance, CEERT has included an Appendix A hereto of Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs in furtherance of those needed changes to the Proposed Decision.

November 12, 2013 Respectfully submitted,

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²⁴ GPI Opening Comments, at p. 5.

APPENDIX A

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS

Because the modifications to the Proposed Decision recommended by several parties in their Opening Comments and supported by CEERT in these Reply Comments were not included in specific Proposed Findings of Fact, Conclusions of Law, or Ordering Paragraphs, CEERT proposes the following modifications in furtherance of those needed changes to the Proposed Decision.

Please note the following:

- A page citation to the Proposed Decision is provided in brackets for each Finding of Fact, Conclusion of Law, and Ordering Paragraph for which a modification is proposed.
- Any proposed additional or new Finding of Fact, Conclusion of Law, or Ordering Paragraph is not numbered, but is identified as “NEW.”
- Added language is indicated by **bold type**; removed language is indicated by **bold strike-through**.

PROPOSED FINDINGS OF FACT:

5. [63] An integration cost adder must be developed and be based on an assessment of system-wide grid impacts and the costs to customers **and should be examined expeditiously in a open and public process that will commence within 180 days of the issuance of this decision**. This analysis should include ways that renewable procurement can be used to enhance grid reliability.

NEW FINDING OF FACT: The Commission needs to address a least-cost best-fit (LCBF) methodology and demonstrate how integration costs should be identified and allocated within 180 days of the issuance of this decision.

NEW FINDING OF FACT: The Commission needs to clarify time-of-day (TOD) rates as part of its evaluation of the LCBF methodology within 180 days of the issuance of this decision.

NEW FINDING OF FACT: Renewable diversity is not being effectively achieved in RPS procurement and requires, at the least, a further evaluation of all Imperial Valley renewable resources and other means to achieve such diversity.

PROPOSED CONCLUSIONS OF LAW

1. [65] The Commission is committed to continuing to monitor renewable procurement activities in Imperial Valley ~~but declines and grants~~ the requests for additional oversight mechanisms based on, among other things, the continued robust procurement in the area.

6. [66] Because an RPS integration cost adder should depend on a broader assessment of the electric system's needs, we refrain from adopting an RPS integration cost adder in this decision, **but commit to evaluation of a cost adder in an open and public forum to commence within 180 days of the issuance of this decision.**

11. [67] The TOD factors presented in the 2013 RPS Procurement Plans are reasonable although different from those applied in 2012 or previous years. **However, TOD factors must be evaluated in an open and public process within 180 days of issuance of this decision.**

PROPOSED ORDERING PARAGRAPHS

4. [69] The Commission's Energy Division Staff shall continue to monitor development of projects under the Renewable Portfolio Standard (RPS) Program in the Imperial Valley according to the parameters set forth in Appendix A of Decision 09-06-018. In addition, Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company are directed to provide a specific assessment of the offers and contracted projects in the Imperial Valley region in future RPS Procurement Plans filed with the Commission pursuant to Pub. Util. Code §399.11 *et seq.* until directed otherwise by the Commission. **To ensure that diversity in renewable resources, types, and technologies is being achieved through RPS procurement, Energy Division Staff shall commence an evaluation and public process to address this issue, including reliance on Imperial Valley renewable resources, within 180 days of the issuance of this decision.**

NEW ORDERING PARAGRAPH: The Commission shall address the least-cost best-fit (LCBF) methodology and treatment of integration costs within 180 days of the issuance of this decision.

NEW ORDERING PARAGRAPH: The Commission shall clarify time-of-day (TOD) rates as part of its evaluation of the LCBF methodology.

VERIFICATION

(Rule 1.11)

I am the attorney for the Center for Energy Efficiency and Renewable Technologies (CEERT). Because CEERT is absent from the City and County of San Francisco, California, where I have my office, I make this verification for said party for that reason. The statements in the foregoing Reply Comments of the Center for Energy Efficiency and Renewable Technologies on the Proposed Decision on 2013 RPS Plans, have been prepared and read by me and are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct and executed on November 12, 2013, at San Francisco, California.

Respectfully submitted,

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