

**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
(May 5, 2011)

**PETITION OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION
FOR MODIFICATION OF DECISION 13-05-034**

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In accordance with Rule 16.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the Solar Energy Industries Association (SEIA),¹ submits this Petition for Modification of Decision 13-05-034 Adopting Joint Standard Contract for Section 399.20 Feed-In Tariff Program and Grant, in part, Petitions for Modification of Decision 12-05-035, issued in the above captioned proceeding on May 30, 2013 (Decision).

I. INTRODUCTION

In Decision 12-05-035, the Commission adopted the Renewable Market Adjusting Tariff (ReMAT) Mechanism for implementing the Investor Owned Utilities' respective Feed-in Tariff (FiT) programs. Pursuant to the program approved by the Commission, contracts are awarded based on placement in a project queue. Thus, Decision 12-05-035 provides that:

[I]nterested generators that meet the program's minimum project viability criteria must submit a program participation request form to the utility. Once the participation request form is *deemed complete*, the utility will establish a queue on a first-come-first-served basis for each product type.²

¹ The comments contained in this filing represent the position of the Solar Energy Industries Association as an organization, but not necessarily the views of any particular member with respect to any issue.

² Decision 12-05-035 at p. 45 (emphasis added).

Given the high level of interest in the IOUs' FiT programs and the limited number of MW available, it was recognized that placement in the IOUs' respective queues would be of critical importance to generators. Given this fact, SEIA, through a petition to modify Decision 12-05-035, sought clarification of the "deemed complete" language, to help assure that the queues were established in a more equitable manner.³ In denying, SEIA's petition, the Commission stated that while "[w]e recognize that this language permits the IOUs to establish their own internal method of determining how a PPR is "deemed complete" and "we find [...] *this process is not entirely transparent,*" we conclude that "the first-come, first-served statutory mandate provides enough guidance to the IOUs to ensure a fair process."⁴ The Commission, however, noted that it would further address the matter "if actual problems arise."⁵

As detailed below, the lack of transparency with respect to the queue has resulted in "actual problems" for program participants. At minimum, in order to ensure a successful and competitive program, the Commission must require each IOU, having established a queue, make such queue public on its website, updating it on a regular basis as projects are added to or drop out of the queue.

II. A TRANSPARENT QUEUE IS FUNDAMENTAL TO A SUCCESSFUL FIT PROGRAM

The IOUs have now initiated their FiT programs under the ReMAT protocol. The queues have been established and the initial contracts have been awarded based on the developers' willingness to execute a power purchase agreement at the offered contract price and placement in the queue. Absent those few developers who were offered contracts, and thus could surmise that

³ See Petition of the Solar Energy Industries Association to Modify Decision 12-05-035, R. 11-05-005 (July 31, 2012).

⁴ Decision 12-05-035, p. 21 (emphasis added).

⁵ *Id.*, p. 22.

they were at the beginning of the queue, all other developer who submitted a program participation request have no means of knowing their position -- i.e., they could be “next in line” or could be in the 100th position in the queue. The IOUs, even upon request, have not made their queues public. This lack of transparency is detrimental to the program.

Staying in the queue is not without cost to project developers. For example, one of the eligibility criteria for the program is demonstrating 100 % site control for the project through (a) direct ownership; (b) lease; or (c) an option to lease or purchase that may be exercised upon execution of the ReMAT power purchase agreement. A developer who has demonstrated site control through an option must continue to pay on that option as his project sits in the queue. If the developer has demonstrated site control thorough direct ownership or lease, then he suffers opportunity costs as the land sits idle. Similarly, Re-MAT eligibility requires that a project must have completed a system impact study or phase 1 cluster study. After a project has completed one of these studies, the project is required to post securities to begin funding necessary interconnection facilities or else face removal from the interconnection queue. The decision to post interconnection securities and maintain an interconnection position depends on the likelihood that the project will obtain a contract.

A developer should be afforded sufficient information to make a reasoned determination as to whether it is economically advisable to remain in the queue or to withdraw. A transparent queue is the only way to ensure project developers have sufficient information. Without this transparency, the IOUs’ FiT programs may suffer significant defection as developers are not willing to risk that they have secured a high enough queue position to potentially be awarded a contract.

In order to remedy this situation, SEIA recommends that the Commission direct that each IOU, at least once per Re-MAT cycle (*i.e.*, sometime after contracts have been awarded from one ReMAT offering and before the next offering has begun), update its queue and publish the queue on its Re-MAT website.

Consistent with this recommendation, SEIA respectfully requests that Decision 13-05-034 be revised to add the following Finding of Fact and Conclusion of Law:

Finding of Fact

A transparent program queue is fundamental to the fairness and success of each IOU's FiT program.

Conclusion of Law

It is reasonable to add a provision to the IOUs' January 18, 2013 draft tariffs which requires each IOU, having established a program queue, to publish such queue on its website and to update it on a regular basis

III. CONCLUSION

For the reasons above stated, SEIA requests that Decision 13-05-034 be modified to effect the changes set forth herein.

Respectfully submitted this 15 day of November, 2013 at San Francisco, California.

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By /s/ Jeanne B. Armstrong

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VERIFICATION

I am the attorney for the Solar Energy Industries Association (SEIA) in this matter. SEIA 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 SEIA for that reason. I have read the attached "Petition of the Solar Energy Industries Association for Modification of Decision 13-05-034." 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 15 day of November, 2013, at San Francisco, California.

/s/ Jeanne B. Armstrong

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