

**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 THE PROPOSED DECISION
CONDITIONALLY ACCEPTING 2013 RPS PROCUREMENT
PLANS**

**INDEPENDENT ENERGY PRODUCERS
ASSOCIATION**

Steven Kelly, Policy Director
1215 K Street, Suite 900
Sacramento, CA 95814
Telephone: (916) 448-9499
Facsimile: (916) 448-0182
Email: steven@iepa.com

**GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP**

Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: bcragg@goodinmacbride.com

Attorneys for the Independent Energy Producers
Association

Dated: November 4, 2013

**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 THE PROPOSED DECISION
CONDITIONALLY ACCEPTING THE 2013 RPS PROCUREMENT
PLANS**

The Independent Energy Producers Association (IEP) is generally satisfied with Administrative Law Judge (ALJ) Regina DeAngelis's resolution of the issues raised in connection with the proposed 2013 Renewable Portfolio Standard (RPS) procurement plans in her Proposed Decision (PD) issued on October 15, 2013. Accordingly, IEP will limit its comments to four revisions that should be made to the PD:

- Now that Southern California Edison Company (SCE) is resuming open, competitive RPS solicitations, SCE's authority to enter into bilaterally negotiated contracts should be restored;
- The Commission should move more aggressively to identify renewables integration costs and to develop a method to allocate those costs;
- The treatment of excess generation should be reconsidered; and
- The minimum interconnection status requirements for eligibility to bid in RPS solicitations should be clarified to accommodate existing

interconnected resources with “substantially unchanged” total capability and electrical characteristics.

I. SCE’S AUTHORITY TO ENTER INTO BILATERALLY NEGOTIATED AGREEMENTS SHOULD BE RESTORED

In the Decision on the 2012 RPS procurement plans, Decision (D.) 12-11-016, the Commission granted SCE’s request not to conduct an RPS solicitation in 2012. Because SCE was not conducting a 2012 RPS solicitation, the Commission also suspended SCE’s authority to enter into bilaterally negotiated agreements, “until removed by a future decision (e.g., addressing RPS Procurement Plans) accepted by the Commission.”¹ The decision on the 2013 RPS procurement plans is the opportunity the Commission contemplated for authorizing a resumption of bilateral options, but the PD makes no mention of the existing restriction or its removal. Because SCE is seeking approval to resume its RPS solicitation, it makes sense that if the Commission authorizes SCE to resume RPS solicitations, the Commission should also restore SCE’s authority to enter into bilaterally negotiated agreements.

IEP respectfully urges the Commission to restore SCE’s authority to enter into bilateral negotiations for RPS contracts in years in which SCE conducts an open, competitive RPS solicitation.

II. THE COMMISSION SHOULD MOVE TO IDENTIFY INTEGRATION COSTS AND TO APPLY INTEGRATION COSTS IN BID EVALUATION

The PD rejects the proposal of SCE and Pacific Gas and Electric Company (PG&E) to use non-zero integration cost adders in bid evaluation.² The PD acknowledges the widespread sentiment that “the Commission should move forward as soon as possible on this issue,” but it fails to act with any sense of urgency. The PD encourages parties to participate in

¹ D.12-11-016, p. 57.

² PD, p. 26.

the initiatives of the California Independent System Operator (CAISO) on this topic and to continue to raise this issue in procurement and resource adequacy proceedings at the Commission.

While IEP agrees that non-zero integration cost adders should not be approved until a methodology for calculating those adders has been thoroughly examined in a public and open process, IEP nevertheless emphasizes the need for quick action on this issue. The integration cost associated with a specific project or location is important information that should be incorporated in the least-cost/best-fit (LCBF) evaluation of responses to a competitive solicitation.

Rather than 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.

III. THE TREATMENT OF EXCESS ENERGY SHOULD BE MODIFIED

The PD considers and approves the utilities’ proposals for two varieties of excess energy:

- The proposal of SCE and San Diego Gas & Electric Company (SDG&E) to pay **nothing** for energy actually delivered during a Settlement Interval that exceeds 110% of the amount originally expected; and

- PG&E, SCE, and SDG&E's proposal to pay only 75% of the contract price for energy actually delivered that exceeds 115% of the expected annual energy production.

Both of these proposed limitations fail to accommodate the fact that many renewable generation technologies are not conducive to precise forecasting. Wind energy, for example, is particularly susceptible to variations within a Settlement Interval. The beneficial output from solar generation facilities during a Settlement Interval can also be substantially affected by the presence or absence of a passing cloud. On an annual basis, the output from small hydroelectric facilities is sensitive to weather-related variations, and the output of wind resources may also be subject to wide annual weather-related variations.

The proposed limitation on excess deliveries during a Settlement Interval is presumably based on the obligation of the utility, as Scheduling Coordinator (SC), to present a balanced schedule of load and resources to the CAISO. The utility as SC may be subject to imbalance penalties if load and resources do not balance, but it may also receive rewards for supplying additional generation when the overall system is out of balance due to a deficiency of supply. The utility as the SC for load and resources is uniquely positioned to minimize imbalances and reduce any costs associated with errors in forecasts of either load or supply.

Moreover, the utility receives considerable value for excess deliveries of renewable power. In addition to the energy and capacity value that is reflected in the generating unit's Net Qualifying Capacity (NQC) and that can help the utility meet its resource adequacy (RA) obligation, the utility receives a Renewable Energy Credit (REC) for each MWh of renewable energy delivered to the utility. It would be manifestly inequitable for the utility to receive the value of the energy and capacity of the excess energy, to retain the REC for purposes

of compliance with its RPS obligation, and (at least at times) also receive imbalance rewards for the excess deliveries, while the generator who produced those benefits receives nothing.

A. Excess Generation During a Settlement Interval

The proposal to pay a renewable generator nothing for renewable energy that exceeds 110% of expected amounts during a specific Settlement Interval should be rejected. Instead, the Commission should take a different approach that more closely matches value and payment. The utility should not receive the value of generation and capacity for which it does not fully compensate the generator. 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.

B. Excess Annual Generation

The proposal for an annual limitation on excess deliveries has even less justification. Since the Legislature has clarified that the 33% RPS goal for 2020 is a floor, not a maximum,³ a utility's failure to achieve the 33% goal will have much more severe consequences than the possibility that its contracted RPS resources may produce more renewable energy and RECs than anticipated. Penalizing renewable generators for improving the generating efficiency of their facilities (resulting in increased production) is inconsistent with public policy objectives, erodes the financeability and operating revenues of renewable resources, and inhibits innovation in a field where the state has a strong interest in encouraging and supporting innovation. In addition, if the state adopts an RPS standard for future years that is higher than the 2020 goal of

³ Assembly Bill 327.

33%, the excess deliveries resulting from improved efficiencies will provide an even greater contribution toward the meeting the new RPS goal.

Instead of an arbitrary price reduction for excess deliveries of renewable energy (meaning that the utility obtains the REC at an enforced unilateral discount), the RPS power purchase agreement should give the utility an option. When the renewable generator's output achieves the annual expected net energy production for a particular year, 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 (including the associated RECs) to another buyer for the remainder of the year.

Alternatively, deliveries of annual expected net energy production should be averaged over a five-year period to account, at least to some extent, for weather variations that affect the output of renewable generators.

IV. EXISTING INTERCONNECTED RESOURCES WITH SUBSTANTIALLY UNCHANGED ELECTRICAL CHARACTERISTICS SHOULD BE ELIGIBLE TO PARTICIPATE IN RPS SOLICITATIONS

To be eligible to bid into an RPS solicitation, bidders are required by the PD to have completed the CAISO's Generation Interconnection and Deliverability Procedures or Phase II (or equivalent) study under the CAISO's Generation Interconnection Procedure.⁴ The PD indicates that this requirement protects against project failure and also provides the utility with more complete transmission upgrade cost and timing information.

The explanation of what is equivalent to a Phase II study,⁵ however, overlooks one potentially important and viable group of resources. Specifically, existing interconnected projects with that seek to repower using RPS-eligible technology may be exempt from the

⁴ PD, pp. 29-30.

⁵ PD, p. 30, fn.68.

CAISO's interconnection processes under certain circumstances, and thus will not be required to complete a Phase II study. The CAISO's rules provide for an exemption from the interconnection process for repowered facilities if the total capability and electrical characteristics of the repowered generating unit will remain substantially unchanged.⁶

To avoid inadvertently disqualifying bidders with existing interconnected projects that are considering repowering with RPS-eligible technology, the PD should be revised to clarify that projects that have not completed a Phase II study are nevertheless eligible to participate in the RPS solicitations if they qualify for the exemption from the CAISO's interconnection processes because the total capability and electrical characteristics of the repowered generating unit will remain substantially unchanged. This clarification could be made by adding appropriate language to footnote 68 on page 30 of the PD.

V. CONCLUSION

For the reasons stated in these comments, the Independent Energy Producers Association respectfully urges the Commission to modify the proposed decision in three ways:

- Clarify that SCE's authority to engage in bilateral negotiations for RPS contracts is reinstated for years in which SCE conducts competitive RPS solicitations;
- Commit to a firm schedule for the Commission's development of a integration cost adder for use in bid evaluation;
- Ensure that generators receive fair compensation for the value of the energy, capacity and RECs they produce, even if production exceeds the expected deliveries during a Settlement Interval or over the course of a year; and

⁶ See CAISO Tariff §§ 25.1.2, 25.1.2.1.

- The minimum interconnection status requirements for eligibility to bid into RPS solicitations should accommodate existing interconnected resources with “substantially unchanged” total capability and electrical characteristics.

Respectfully submitted this 4th day of November, 2013 at San Francisco, California.

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: bcragg@goodinmacbride.com

By /s/ Brian T. Cragg

Brian T. Cragg

Attorneys for the Independent Energy
Producers Association

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 the Proposed Decision Conditionally Accepting the 2013 RPS Procurement Plans," dated November 4, 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 4th day of November, 2013, at San Francisco, California.

/s/ Brian T. Cragg

Brian T. Cragg