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)

OPENING COMMENTS OF THE UTILITY REFORM NETWORK ON THE PROPOSED DECISION OF ALJ DEANGELIS CONDITIONALLY ACCEPTING 2013 RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLANS

TURN
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Lower bills. Livable planet.

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Pursuant to Rule 14.3 of the Commission Rules of Practice and Procedure, TURN submits these opening comments on the Proposed Decision (PD) of ALJ De Angelis on the 2013 Renewables Portfolio Standard (RPS) procurement plans. TURN generally supports the PD but urges the Commission to take a closer look at the consequences of allowing renewable procurement activities to focus on new facilities with initial online dates past the expected expiration of the currently applicable Investment Tax Credit (ITC) and the Production Tax Credit (PTC).

In comments on the 2013 plans, TURN expressed serious concerns with PG&E's strong preference for new resources with contract start dates in 2020 or later. TURN explained that this "preference" is unwise in light of the expected sunset of the 30% ITC on December 31, 2016 and the requirement that an eligible wind project must commence development by the end of 2013 to receive the PTC.[1] The PD recognizes this concern but does not direct any of the IOUs to consider the lost value associated with the unavailability of the ITC/PTC for projects with later start dates.[2]

TURN reiterates the need for the Commission to take seriously the potential loss of federal tax benefits. These tax credits directly offset ratepayer costs and represent a significant savings that is unlikely to be replaced by potential declines in future

[1] Under current law, the ITC will be reduced from 30% to 10% for any eligible project achieving commercial operation after December 31, 2016. In order to receive the PTC, a project must commence construction by December 31, 2013 which can be satisfied by a showing that the developer has incurred five percent of the total project cost and subsequently makes continuous progress towards completion.

[2] PD, page 41. ("it is unclear whether PG&E's preference for new resources with contract start dates in 2020 or later, could unduly restrict the participation of cost efficient projects with slightly different start dates. That said, we do not require any modifications to PG&E's preferences today because we appreciate the need for utilities to solicit contracts that conform to their procurement needs.")

project costs. Mover, tax credits represent a major financing assumption that is essential to developing projects at their bid prices. Projects will neither receive financing nor proceed with active development if the initial online date is projected to extend past the current statutory ITC/PTC sunset.

Both SDG&E and PG&E have admitted that the loss of the PTC/ITC is likely to lead to higher prices for new wind and solar facilities.[3] PG&E further acknowledged that new projects with online dates after the ITC/PTC sunset are far more prone to delay and cancelation.[4] This means that, unless the ITC and PTC are extended beyond their current expiration, PG&E's decision to rely on new projects with post-2016 online dates will increase the expected cost of RPS compliance for its customers and lead to much higher failure rates for these contracts.[5]

The Commission should take a more active role in directing the IOUs to avail themselves of opportunities to harness available federal tax benefits. There is no reason to leave this money on the table solely to allow for a short-term delay in initial contract deliveries given that new projects are typically contracted for periods of 15-25 years. Ratepayers are poised to realize net benefits even if the consequence is near-term overprocurement.

TURN recognizes that PG&E does not have significant near-term renewable resource need and, all things being equal, would prefer later start dates for new contracts. But all things are not equal if the current menu of tax credits is no longer available. The value of these credits should trump PG&E's desire to avoid excess near-term procurement quantities.

[3] SDG&E RPS plan, page 20; PG&E RPS plan, page 74.
[4] PG&E RPS plan, page 18.
[5] PG&E admits that such projects are "more susceptible to development delay or failure." (PG&E RPS plan, page 72)

TURN therefore urges the Commission to direct PG&E to require that new projects contracted in the upcoming solicitations have expected online dates that will qualify for the current ITC/PTC. TURN does not oppose allowing PG&E to delay its obligation to procure output from these facilities until a later date so long as the contracts require facilities to be online in time to realize the tax benefits. Under this approach, counterparties would be required to begin project development in the near-term, meet early milestones and achieve commercial operation prior to the expiration of the ITC or PTC.

The Commission must take a more active role by providing direction that is likely to lead to ratepayer savings. PG&E should not be allowed to adopt an approach that fails to accomplish this result especially when there is no compelling rationale for this strategy.

Respectfully submitted,

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VERIFICATION

I, Matthew Freedman, am an attorney of record for THE UTILITY REFORM NETWORK in this proceeding and am authorized to make this verification on the organization's behalf. The statements in the foregoing document are true of my own knowledge, except for those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I am making this verification on TURN's behalf because, as the lead attorney in the proceeding, I have unique personal knowledge of certain facts stated in the foregoing document.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 4, 2013, at San Francisco, California.

__________/s/______________

Matthew Freedman
Staff Attorney