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 UTILITY REFORM NETWORK CONCERNING EXTENSION OF THE RENEWABLE AUCTION MECHANISM PROGRAM

TURN
THE UTILITY REFORM NETWORK
Lower bills. Livable planet.

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Pursuant to the December 31, 2013 Ruling of ALJ DeAngelis, The Utility Reform Network (TURN) submits these comments concerning the future of the Renewable Auction Mechanism ("RAM"). TURN provides limited responses to certain questions posed in Attachment A of the ALJ Ruling, and TURN looks forward to responding to the comments of other parties.

1. Summary of TURN Policy Position

TURN supports extending the RAM program. While the IOUs are generally net long on renewable energy through 2017, they will require additional renewable energy deliveries either in the third RPS compliance period or post 2020. The RAM is ideally suited to procure discrete amounts of renewable capacity to meet fluctuating needs. Furthermore, the RAM offers a path to develop distributed generation so as to comply with legislative directives for more distributed resources.

TURN recommends that the Commission immediately authorize an additional RAM auction for December 2014 in order to maximize the potential of projects to utilize the investment tax credit ("ITC") that, under current law, will be reduced from 30% to 10% for new solar projects achieving commercial operations after January 1, 2017. Subsequently, the Commission should authorize the need and size of RAM auctions as part of the RPS procurement plan process.

The Commission could expand eligibility to the CAISO balancing area, but in no case should the Commission authorize WECC-wide eligibility.

2. TURN Supports the Reauthorizing the RAM Based on Needs Determinations Made in the RPS Proceeding (Question 1)

2.1. There Is a Need to Continue the RAM Program as an Important Component of Future RPS Procurement (Questions 1a and 1d)

The Energy Division summary of the RAM program provides data and information indicating that the program has been successful in promoting bids from mid-scale distributed generation, primarily photovoltaic solar installations, at a very competitive price. It is too early to evaluate the viability of winning bids, though the information concerning projects from RAM 1 is encouraging.

TURN is usually wary of multiple programs and constraints to address the same procurement goals, as multiple programs tend to increase administrative costs and allow opportunities for gaming. However, TURN is persuaded that market conditions and utility forecasts warrant continuation of a streamlined program targeted specifically at the under 20 MW resource category. These resources may face fewer siting and environmental impact problems than larger-scale RPS projects, and provide an opportunity to procure renewable resources in discrete incremental amounts.

In their latest RPS procurement plans, the utilities forecast need for additional renewable procurement for either the third compliance period, or to meet the ongoing 33% annual requirement after 2020. PG&E identified no need until 2021 under its "current expected need" scenario, but that scenario unrealistically assumed zero contract failure.[1] PG&E forecast a gross deficit of 2,727 GWh in the third compliance period under its "high need" scenario, assuming a contract failure rate of 10%. Assuming a failure rate of 40%, SCE forecast a gross deficit of 17,630 GWh and net deficit (after using banked surplus) of 7,341 GWh for the third compliance period, with a large ongoing need post-2020.[2] SDG&E forecast a net surplus for the third compliance period but identifies significant need starting in 2021.[3] In short, while the utilities have contracted for sufficient renewable energy through 2016, they will require additional project development to meet needs either as early as the 2017-2020 compliance period, or to meet the ongoing annual 33% RPS requirement after 2020.

Existing RAM projects selected during RAM 1-5 will contribute to new renewable development coming online in 2014-2016. New renewable generation pursuant to an extension of the RAM program could satisfy RPS needs beginning

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[1] R.11-05-005, PG&E 2013 RPS Procurement Plan, December 4, 2013, Appendix 1A, p. 1.

[2] R.11-05-005, SCE 2013 RPS Procurement Plan, December 4, 2013, v. 1, Appendix C2.

[3] R.11-05-005, SDG&E 2013 RPS Procurement Plan, December 4, 2013, December 4, 2013, Appendix 2.

in 2017. . Since RAM contracts are expected to continue for 20 years after the initial online date, the Commission should consider the long-term RPS needs when determining the appropriateness of additional solicitations rather than focusing exclusively on any identified renewable net short position in the 2017-2020 timeframe. Given the ability of the RAM to procure fairly discrete chunks of capacity, with relatively short development times, the mid-scale projects and RAM contracting processes are ideally suited to backfill utility renewable needs for the post-2020 time period, depending upon future variations in load and the successes or failures of large-scale project development.

Furthermore, AB 327 authorizes the Commission to require renewable procurement targets above 33% after 2020.[4] Any such new targets would likely be implemented as part of the RPS procurement plan. Again, the scale and timeline of RAM procurement is ideally suited to provide incremental sources of renewable energy. The RAM program imposes less contract failure risk, as large amounts of projected future energy deliveries are not dependent on the success or failure of individual large projects.

Staff requests comments on whether the RAM should be reauthorized as is, with a certain capacity for a certain number of years, or should be reauthorized as a component of RPS procurement, with capacity goals and timelines for solicitations based on renewable needs determination through the

[4] § 399.15(b)(3).

annual RPS procurement plans.[5] TURN strongly recommends the second approach. RAM procurement goals should be established annually based on the need for additional resources to meet RPS procurement targets. However, RAM solicitations should be scheduled for a multi-year basis, rather than simply authorizing a single RAM solicitation at a time, in order to promote predictability and minimize boom and bust cycles for the industry.

Staff also asks parties to comment on whether the RAM should be the primary RPS procurement mechanism for all RPS-eligible procurement (option d.ii.2), or simply an option within the annual RFP RFO (option d.ii.3). TURN does not offer a specific recommendation concerning these options at this time.

2.2. The Commission Should Immediately Authorize One RAM Auction for December 2014 in Order to Allow Projects to Take Advantage of the Federal Investment Tax Credit

TURN is concerned that any action on RAM extension may not be finalized until the fourth quarter of 2014, resulting in the next RAM auction sometime in 2015. TURN recommends that even prior to any long-term extension of the RAM, the Commission authorize a sixth RAM auction by November 2014. An auction in late 2014 is important in order to select projects by early 2015 so as to provide an opportunity for developers to take advantage of the Investment Tax Credit.

[5] ALJ Ruling, Attachment A, p. 16.

The current 30% federal Investment Tax Credit (ITC) for solar projects is only available to projects achieving initial commercial operations by December 31, 2016.[6] Solar projects account for over 80% of the contracts executed from RAM 1-3.[7] The ITC represents a major financing assumption that is essential to achieving the pricing contained in every solar PPA. In its recent RPS procurement plan, SDG&E explained that these credits "represent about 33% of the economic value of renewable projects and without them, the relative competitiveness of renewable energy relative to fossil fuels, will be severely impacted."[8] PG&E's 2013 RPS plan similarly acknowledges that the current tax credits combined with abundant supply are driving "relatively low project pricing in the near term" and that the expiration of these credits may lead to "higher prices for incremental RPS procurement."[9]

Since every bid submitted in a utility solicitation assumes continuation of the ITC, any project with a post-2016 online date is at serious risk of cancelation or delay. Projects will neither receive financing nor proceed with active development if the initial online date is projected to extend past the current statutory ITC sunset. Developers will wait until the ITC is extended to proceed, thereby jeopardizing their ability to meet contracted online dates. If the ITC is

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[6] Unless Congress acts to extend this date, projects coming online after January 1, 2017 would be eligible for a 10% ITC.

[7] ALJ Ruling, Attachment A, p. 7.

[8] SDG&E 2013 RPS plan, R.11-05-005, page 20.

[9] PG&E 2013 RPS plan, R.11-05-005, pages 32, 74.

not extended, many of these contracts are likely to be terminated because developers will not be obtain financing due to below-cost PPA pricing.

The current RAM rules require project completion within 24 months of contract execution. The first RAM auction was held in November 2011, and of the thirteen contracts approved in April of 2012, four were online by December 31, 2013.[10] There is insufficient data to determine whether most projects can successfully complete within 24 months.[11] However, in order to provide an opportunity for more solar projects to be completed before the end of 2016, another RAM solicitation should be held no later than November 2014.

The Commission delegated to staff authority to issue a Resolution on its own motion adjusting the RAM program capacity limit.[12] In Resolution E-4582 the Commission allocated remaining authorized RAM capacity to a fifth RAM auction in June 2014 in order to better align future project development with utility renewable energy procurement need, which showed that the IOUs were

[10] ALJ Ruling, Attachment A, p. 11.

[11] TURN believes that the 24-month timeline is overly aggressive. For example, SCE evaluated the 24-month criterion by assuming the lower end of a range in the timelines from an interconnection study. See, for example, AL 2785, October 1, 2012, p. 6. This seems potentially an overly optimistic assumption. The Commission, however, rejected a proposal to increase this criterion to 36 months. Resolution E-4546, November 8, 2012, p. 27-28. TURN recommends the ability to come on-line within 24 months be closely monitored to determine whether this criterion should be modified in the future.

[12] D.10-12-048, Ordering Paragraph 5; See, also, Resolution E-4414, Ordering Paragraph 41.

net long for the second compliance period.[13] In November of 2012 the Commission rejected a request for additional RAM solicitations; however, the Commission explained that it agreed that expansion of the RAM might be warranted, but declined to authorize an additional solicitation to address solely project failure on a piecemeal basis.[14]

Projects already authorized from prior RAM solicitations will need to be completed sometime in 2015. Some projects may be terminated by the developer, while others may fail to meet the deadline for a variety of reasons. Some projects may fail to be completed on schedule, but could eventually be completed and seek a power purchase agreement with an IOU. Such projects would be eligible to bid into a future RAM RFO.

There is no mechanism in place for allocating any capacity that becomes unsubscribed due to contract termination or project failure. The most recent RPS procurement plans demonstrate some additional need for RPS procurement in the third compliance period. The expiration of the ITC poses very significant price and development risks for future solar projects, even if the RAM is extended. Authorizing a sixth RAM solicitation by December 2014 provides a hedge against the risk that the ITC is not reauthorized. The Commission could authorize this additional solicitation prior to implementing rules governing future the future RAM program. The significant price risk due to ITC expiration

[13] Resolution E-4582, May 9, 2013, p. 5.
[14] Resolution E-4546, November 8, 2012, p. 30.

warrants such authorization, even though the Commission was reluctant to act on a "piecemeal" basis in 2012.

TURN recommends that the Commission adopt a Resolution on its own motion to authorize a sixth RAM auction for an additional 200 MW or the amount of unsubscribed and reallocated capacity, whichever is greater.

3. RAM Projects Should be Located Within the CAISO Control Area (Question 2a)

The existing RAM eligibility rule requires that projects be located in the service territory of the electric IOUs. Energy Division requests parties to comment on relaxing this requirement so that projects could bid into an RFO if they are located in the entire CAISO control area, all of California, or the entire Western Electricity Coordinating Council ("WECC").

TURN strongly recommends against expanding eligibility to the entire WECC. This option was proposed in the original RAM proposed decision and was uniformly opposed by all parties.[15] The Commission rejected this proposal and explained that the underlying purpose of RAM warranted restricting locational eligibility to the IOU service territories.[16] While the RAM contract provided an opportunity for mid-scale projects to obtain expedited approval with prices potentially higher than projects bidding into RPS solicitations, the Commission also found that restricting locational eligibility was a mechanism to

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[15] See, D.10-12-048, p. 46.
[16] See, D.10-12-048, p. 47.

control prices by encouraging resources that "utilize existing transmission and distribution infrastructure."[17]

Events subsequent to D.10-12-048 only reinforce this conclusion. First, the Commission adopted RPS procurement rules pursuant to statutory mandate in SB 2 (1X) that requires projects located out of the CAISO balancing authority (or not interconnected via a dynamic pseudo-tie) to schedule energy directly into the CAISO in order to qualify a Product Content Category 1.[18] Allowing projects outside the CAISO balancing area to participate would introduce many new complexities into the bid ranking process along with the risk that some portion of deliveries may not satisfy the requirements of Product Content Category 1. This fact could frustrate the ability to reasonably compare bids from different facilities.

Second, the Legislature has repeatedly signaled an intent to promote distributed energy resources that interconnect to the distribution system and close to load, most recently in AB 327 (Perea, 2013) and SB 43 (Wolk, 2013). Newly enacted § 769 requires utilities to submit distribution resource plans to identify optimal locations for DG and to propose tariffs and mechanisms to deploy cost-effective distributed resources. Newly enacted § 2833 implements a Green Tariff Shared Renewables Program supporting procurement through existing programs and mechanisms so that "to the extent possible, a participating

[17] D.10-12-048, p. 2.
[18] See, generally, D.11-12-052.

utility shall seek to procure eligible renewable energy resources that are located in reasonable proximity to enrolled participants."[19]

The RAM provides a successful existing mechanism to fulfill the mandates of § 769 and § 2833. Expanding RAM eligibility to areas outside California would undermine these legislative goals. Indeed, TURN suggests that the Commission go in the opposite direction and solicit proposals in this proceeding to develop policies and tools that would favor interconnection at the distribution level and in locations where new capacity would satisfy local resource needs.

4. Existing Capacity in Utility PV Programs Should be Allocated to RAM (Question 2c)

TURN supports consolidating the approximately 352 MW of existing unsubscribed capacity in the PG&E and SCE solar photovoltaic programs ("SPVP") into future RAM procurement. While TURN has not closely reviewed the pricing and development success of the IOU solar photovoltaic programs as compared to RAM, it is our general understanding that RAM projects provide better pricing due to tax impacts and other standardized elements of the program.

There does not seem to be any policy basis for continuing the separate SPVP programs. These programs were originally developed to promote mid-scale solar projects located close to load. The concern was that there was a "gap" between the small projects supported by CSI and large RPS projects, and there

[19] § 2833(e).

was no legislative action at that time to fill this gap.[20] These original rationales are no longer relevant. The Legislature has acted to order a feed-in tariff for small (under 3 MW) projects; and the Commission has implemented both the ReMAT and the RAM since 2009. Given the success of the RAM in promoting mid-scale solar installations, it is simply poor public policy to continue separate and duplicative programs. Such duplication merely increases administrative costs and creates potential conflicting incentives for the IOUs.

Consolidating these SPVP programs with the RAM is consistent with TURN's recommendation that the Commission immediately authorize a sixth RAM solicitation, and subsequently continue RAM subject to needs determinations in RPS procurement plans. These 352 unsubscribed MW could be allocated to the sixth RAM auction.

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Respectfully submitted,

___________/S/___________

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[20] See, for example, D.09-06-049, p. 9-11.

VERIFICATION

I, Marcel Hawiger, 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 an 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 January 30, 2014, at San Francisco, California.

________/s/______________

Marcel Hawiger
Staff Attorney