

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 OFFICE OF RATEPAYER ADVOCATES
ON THE ADMINISTRATIVE LAW JUDGE'S RULING
REQUESTING COMMENTS ON REVISED STAFF PROPOSAL AND
UPDATED ALTERNATIVE PROPOSALS FOR A METHODOLOGY
TO IMPLEMENT PROCUREMENT EXPENDITURE LIMITATIONS
FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM**

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March 19, 2014

I. INTRODUCTION

The Office of Ratepayer Advocates (ORA) respectfully provides these comments in response to the February 20, 2014 Administrative Law Judge's Ruling Requesting Comments on Revised Staff Proposal and Updated Alternative Proposals for a Methodology to Implement Procurement Expenditure Limitations for the Renewables Portfolio Standard Program (2014 Ruling).

Senate Bill 2 (1X) (Simitian, 2011) established the 33 percent Renewables Portfolio Standard (RPS) and required the Commission to establish a Procurement Expenditure Limitation (PEL) on the total costs of the RPS program. The Administrative Law Judge's July 23, 2013 Ruling introduced Energy Division Staff's proposal (Staff Proposal) establishing a methodology to set the PEL (July 2013 Proposal). Subsequent rounds of comments and a workshop allowed stakeholders to comment on the Staff Proposal and file alternative PEL proposals. The 2014 Ruling presents Staff's revised proposal. These comments address several issues in the revised Staff Proposal and the alternative proposals submitted by L. Jan Reid and the Joint Parties.¹

ORA supports the revised Staff Proposal with the following recommendations:

- The ten-year forward-looking timeframe provides meaningful cost containment and protects ratepayers;
- Restructuring the PEL from a ratio to a budget creates a simpler framework and a more constrained expenditure limitation; and
- Staff's revised Proposal correctly assumes a 100 percent success rate for projects in development because payments to those facilities are contractual commitments the utilities have made. The Renewable Net Short (RNS) calculation must then be adjusted to reflect the 100 percent project success assumption.

ORA submits that:

- Jan Reid's alternative proposal incorrectly assumes that all RPS megawatt-hours cost the same amount; and
- The Joint Parties' waiver proposal does not allow sufficient time for stakeholder review because the review process begins when a utility reaches 100 percent of its PEL.

¹ The Joint Parties are Southern California Edison Company, the California Large Energy Consumers Association, the Energy Producers and Users Coalition, and the California Manufacturers and Technology Association.

II. DISCUSSION

A. ORA Supports the Revised Staff Proposal Because it Provides a Transparent and Straightforward Methodology that Protects Ratepayers from Excessive Costs

1. The Ten-Year Forward-Looking Timeframe Provides Meaningful Cost Containment and Protects Ratepayers (Question 5)

The July 2013 Proposal based a PEL budget on the Investor Owned Utilities' (utilities) ten-year forecast of their RPS costs, including those associated with the RNS, reset every two years for new cost forecasts. The July 2013 Proposal would modify the entire PEL every two years. The revised Staff Proposal retains the ten-year forecast of RPS costs but recommends updating the RNS cost forecast in the fourth year.² ORA supports the revised Staff Proposal because it should more accurately reflect actual costs. Resource costs can change over time and revisiting the costs after four years allows the utilities some flexibility in case of market changes. Further, under the July 2013 Proposal, only the RNS portion of the PEL would be modified, and only once in the ten-year period. The revised Staff Proposal allows parties and the public to understand the rate impact of RPS for the ten year period and provides transparent expenditure limitations, while allowing for any necessary adjustments during the fourth year. Overall, the revised Staff Proposal appears to provide a more meaningful set of ratepayer protections and a more predictable set of ratepayer costs for the RPS program than the July 2013 Proposal.

2. Restructuring the PEL from a Ratio to a Budget Creates a Simpler Framework and a More Constrained Expenditure Limitation (Question 18)

ORA agrees that the "budget" approach -- a total cost restriction rather than a limitation based on the ratio of expenditures to revenue requirement -- is a simpler and more transparent way to implement the PEL.³ The July 2013 Proposal's ratio could not effectively account for load growth or different/increasing RPS targets between years. The July 2013 Proposal would have mandated that a utility maintain an average PEL ratio over the ten-year period. This PEL ratio would be equal to the highest single year's PEL ratio from its forecast. For example, utilities which have a 20 percent RPS target in 2011 and a 33 percent RPS target in 2020 (an over 50 percent difference in required procurement) would base the cost ratio limit on the 2020

² February 20, 2014 ALJ Ruling, p. 10.

³ February 20, 2014 ALJ Ruling, p. 11.

cost ratio. This structure effectively created an excessive “cushion” in years with lower RPS targets, allowing the utilities to potentially spend considerably more than needed in their own ten-year projections. The revised Staff Proposal eliminates that issue by setting the budget at a utility’s projected expenditure levels.

3. Since a 100 Percent Project Success Rate is Assumed in Calculating Expenditures, RNS Costs Must be Adjusted Accordingly (Question 18)

The PEL calculation consists of a committed RPS expenditures portion, comprised of executed and approved contracts and utility-owned facilities; and an RNS portion. For the committed RPS expenditures portion, the revised Staff Proposal assumes a 100 percent success rate for RPS projects that are in development but have not yet come online. But some portion of the committed projects will fail. Since the calculation does not recognize that some portion of those RPS projects will fail, its results are somewhat inflated. Rather than risk-adjusting the expenditures by predicted project failure rates, the revised Staff Proposal adopts a conservative approach recognizing that ratepayers will incur the full costs of Commission-approved RPS contracts. Staff’s revised methodology assumes that some projects will fail.⁴ Thus, the calculation creates a larger RNS, leading to more forecasted renewable procurement costs than would an assumption of 100 percent success rate in the RNS calculation.⁵ ORA supports this approach because it yields a more accurate PEL calculation and acknowledges that ratepayers pay RPS contract costs.

Adding the costs associated with a fully “successful” portfolio in the committed RPS expenditures portion of the PEL to a short position that assumes a certain amount of project failure in the RNS portion of the PEL, overestimates the utility’s future procurement levels and the associated costs. If the Commission adopts the proposed 100 percent success rate for the committed RPS expenditures portion of the PEL, then ORA recommends that the RNS calculation used for the PEL be adjusted to assume 100 percent project success to be consistent with the procurement expenditure calculations and produce an accurate forecast of procurement levels and associated costs.

⁴ February 20, 2014 ALJ Ruling, Attachment B, p. 19. See Also August 2, 2012 ALJ Ruling in the instant proceeding.

⁵ February 20, 2014 ALJ Ruling, p. 16.

B. L. Jan Reid’s Alternative Proposal Incorrectly Assumes that All RPS Megawatt-Hours Cost the Same Amount

L. Jan Reid’s alternative proposal assumes that utilities’ procurement costs will increase in proportion to their RPS requirements. He proposes that the PEL ratio, which would serve as the constraining factor on utilities’ expenditures, be adjusted mechanically as RPS requirements increase from 2014 to 2021.⁶ But the utilities’ expenditures will not grow in exact correlation with larger volumes of renewable purchases. For example, many higher priced contracts executed in the 2008-2010 period will come online and enter utilities’ portfolios in the 2013-2016 period while lower-priced contracts executed later will come online in later years. Expenditures should not be limited on the assumption that each renewable megawatt-hour costs the same as any other because it is mathematically incorrect and will lead to a PEL that does not match the actual commitments for RPS expenditures.

C. The Joint Parties’ Waiver Proposal does not Allow Sufficient Time for Stakeholder Input Because the Review Process Begins When a Utility Reaches 100 Percent of its PEL

The Joint Parties propose that a utility seeks a Commission waiver from further RPS procurement when it reaches 100 percent of its PEL.⁷ Allowing the utility to attain 100 percent of its PEL *before* it seeks a waiver denies the Commission and RPS stakeholders the opportunity to monitor the utility’s RPS procurement and expenditures. Senate Bill 2 (1X) states that if a utility cannot comply with the PEL: (1) it may refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation unless eligible renewable energy can be procured without exceeding a de minimis increase in rates or (2) the Commission may modify the utility’s PEL; investigate and identify why the utility exceeded its PEL; and notify the Legislature of its findings.⁸ The Joint Parties’ waiver proposal does not reflect the intent of SB 2 (1X) nor does it adequately inform RPS stakeholders of a utility’s RPS performance.

⁶ Proposal of L. Jan Reid on Procurement Expenditure Limitations, p. 7.

⁷ Joint Revised Alternate Proposal of Southern California Edison Company, the California Large Energy Consumers Association for a Methodology to implement Procurement Expenditure Limitations for the Renewables Portfolio Standard Program, p. 11.

⁸ See Senate Bill 2 (1X) (Simitian, 2011) available at: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0001-0050/sbx1_2_bill_20110412_chaptered.html.

Instead, ORA supports the Staff's revised methodology which, once the utility or Energy Division determines that utility is approaching 90 percent of its PEL budget and has not yet met its RPS requirements, lays out the elements of a required utility showing before the Commission.⁹ Additionally, ORA recommends the utility file a Tier 3 Advice Letter when it has reached 90 percent of its PEL or when it forecasts it may not be able to meet RPS requirements with the PEL.¹⁰ A Tier 3 Advice Letter will ensure that Energy Division and interested parties are aware any approaching PEL, and that the utility has a vehicle for making a showing before the Commission as laid out in the revised Staff Proposal.

III. CONCLUSION

ORA supports the revised Staff Proposal with the recommendations discussed in these comments.

Respectfully submitted,

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⁹ February 20, 2014 ALJ Ruling, pp. 23-24.

¹⁰ The Office of Ratepayer Advocates Comments on Staff Proposal for A Methodology to Implement Procurement Expenditure Limitations for the Renewables Portfolio Standard Program, September 26, 2013, pg. 12.

VERIFICATION

I, Iryna A. Kwasny, am counsel of record for the Office of Ratepayer Advocates in proceeding R.11-05-005, and am authorized to make this verification on the organization's behalf. I have read the **OPENING COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES ON THE ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON REVISED STAFF PROPOSAL AND UPDATED ALTERNATIVE PROPOSALS FOR A METHODOLOGY TO IMPLEMENT PROCUREMENT EXPENDITURE LIMITATIONS FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM** filed on March 19, 2014.

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 are true and correct.

Executed on March 19, 2014 at San Francisco, California.

/s/ IRYNA A. KWASNY

Iryna A. Kwasny
Staff Counsel