

**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 R.11-05-005

**COMMENTS OF THE GREEN POWER INSTITUTE
ON THE STAFF PROPOSAL ON PROCUREMENT REVIEW REFORM**

May 7, 2014

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**COMMENTS OF THE GREEN POWER INSTITUTE
ON THE STAFF PROPOSAL ON PROCUREMENT REVIEW REFORM**

Pursuant to the April 8, 2014, *Administrative Law Judge's Ruling (1) Issuing Staff Proposal to Reform Procurement Review Process for the Renewables Portfolio Standard Program, (2) Setting Comment dates, and (3) Entering Staff Proposal into the Record*, in Proceeding R-11-05-005, the **Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program**, the Green Power Institute (GPI), the renewable energy program of the Pacific Institute for Studies in Development, Environment, and Security, provides these *Comments of the Green Power Institute on the Staff Proposal on Procurement Review Reform*.

The Staff Proposal, which is an Attachment to the April 8, 2014, *ALJ's Ruling*, makes seven changes to the current process for reviewing RPS short lists and contracts. These *Comments* discuss some of the proposals that are contained in the Staff Proposal, and address some of the questions that are posed in the Staff Proposal.

4.1 Data Adequacy

The GPI supports establishing data-adequacy standards for all information submitted to the Commission by an IOU to facilitate timely and efficient review. However, we are concerned about the amount of information that is requested in the Staff Proposal, particularly in the section on the description of a project's permitting plan and due diligence. We acknowledge the Commission's interest in following the project's permitting progress on a high level, however the staff proposal borders on making the Commission a virtual party to the project's permitting program. It is important to make sure that these proposals are not overly intrusive, and do not interfere with the developer's ability to move a project from the stage of power-contract holder to operating generator.

The GPI agrees with the proposal to have the project provide a GIS file of the project boundary, and a list of permits and approvals required from regulatory authorities at the

local, state, and federal levels, as well as a schedule to complete the permitting process. Any public-domain documents that are produced in the course of the permitting process, such as an EIS, should be made available to the Commission. However, we absolutely do not believe that the kinds of information listed in bullet-point c) on page 9 of the Staff Proposal, such as correspondence between the project proponents and the permitting authorities, should be required to be submitted to the Commission. We simply do not see any context in which the Commission needs this kind of information in order to determine whether to approve a short list or a PPA, and inserting the Commission into the permitting process at a level of participation that has the potential to delay and possibly to derail the successful completion of the process. Thus, in answer to the question posed on page 10 at the end of this section of the Staff Proposal, yes, some of the environmental data adequacy requirements in the Staff Proposal on data adequacy are not appropriate.

The GPI also questions the need to require projects-in-development to submit a permitting-risk analysis, as detailed in bullet-point e) on pages 9-10 of the Staff Proposal. The spectrum of risks that a project-in-development faces in trying to obtain its permits is well known, as demonstrated by the discussion in the bullet point itself. Indeed, dealing with these risks can be called the art of project development. We note that the environmental-permitting process itself is designed to ensure the environmental acceptability of an energy project. Asking a project to reveal its internal assessment of the project's risks cannot improve the project's probability of success, but it can certainly hinder it. The Commission already knows that new-project development is a risky business, and that not all projects that are awarded PPAs will make it all the way through the project-development minefield to become operating energy facilities. This risk is mitigated not at the individual project level, but at the portfolio level, by contracting for more capacity than is actually desired. We do not know what more a detailed knowledge about the specific risks of a given project that is judged to be just and reasonable if successfully completed will provide to the Commission for their contract-approval process.

4.2 Standards of Review for IOU's Shortlists

The section on standards of review for the shortlists submitted by the IOUs begins:

Currently, the IOUs submit their shortlist of bids and an accompanying Independent Evaluator (IE) Report to the Commission via a Tier 2 advice letter. The shortlists are reviewed by Commission staff to ensure that the IOUs evaluated and shortlisted the bids consistent with approved LCBF methodologies and each IOU's RPS net short, as approved by the Commission in the annual RPS procurement plan decisions. [Staff Proposal, pg. 10.]

In the opinion of the GPI, the key component of the process described above is the LCBF methodology. We have complained on many occasions in this proceeding and its predecessors that while the existing LCBF methodology is essentially opaque to public scrutiny, the outcome of the process has been difficult to distinguish from what would be produced by an LC methodology alone (without the BF). In our opinion, the most obvious indicator that the best-fit part of the equation is not making a significant contribution to the outcome of the assessment is that according to the Commission's own projections, virtually all of the growth in renewable generating capacity in California between now and 2020 is expected to be in a single renewable option, solar photovoltaic. A functioning LCBF methodology that truly balanced best-fit with least-cost would surely produce a more diverse outcome.

The Commission has been promising to conduct an overhaul of the LCBF process for several years, most recently in the January 13, 2014, *Third Amended Scoping Memo and Ruling*. The January scoping memo includes the LCBF overhaul, and schedules a Ruling initiating the process for the first quarter of 2014. It is now almost half-way through the second quarter of 2014, and no Ruling has been issued. In our opinion overhauling the LCBF is a matter of the highest priority, and should be initiated now, so that the results can be put into practice in the next RPS-solicitation cycle. We hope that the process will not only be streamlined and improved, but that it will also become more transparent.

The two questions that are posed at the end of the section, on pages 12-13 of the Staff Proposal, introduce a figure-of-merit called the Net Market Value (NMV), which could potentially be used to set a limit on which projects can be included on an IOU's short list.

We cannot find any definition of the NMV in the Staff Proposal, or indication of how it differs from cost. Lacking such specificity, we are unable to address the questions posed in the Staff Proposal.

4.3 Date Certain for Contract Execution and Submission for Approval

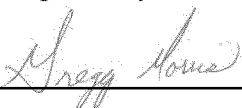
The GPI supports the proposal to establish a date certain for contract execution and submission for Commission approval, for the reasons stated in the Staff Proposal.

4.6 Standards of Review for Unbundled RECs

The GPI applauds the Commission's decision at its May 1, 2014, Board Meeting to decline three contracts for unbundled RECs, essentially on the basis that they violated the spirit, if not the letter of the RPS legislation. Based on the declining allowance for the use of unbundled RECs over time, it is clear that the legislature's intention is to allow the use of unbundled RECs as a short-term measure to allow retail sellers to meet their RPS procurement obligations while new generating capacity is being developed. Unbundled RECs are not supposed to be used for purposes of arbitrage or speculation, and certainly not to avoid or delay the development of new renewable generating capacity. We hope that this precedent is followed in the future.

Dated May 7, 2014

Respectfully Submitted,

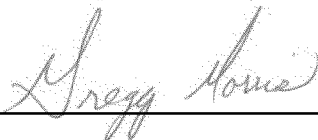


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VERIFICATION

I, Gregory Morris, am Director of the Green Power Institute, and a Research Affiliate of the Pacific Institute for Studies in Development, Environment, and Security. I am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing copy of *Comments of the Green Power Institute on the Staff Proposal on Procurement Review Reform*, filed in R.11-05-005, are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

Executed on May 7, 2014, at Berkeley, California.

A handwritten signature in cursive script, reading "Gregory Morris", is written above a solid horizontal line.

Gregory Morris