

**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

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

May 28, 2014

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**REPLY 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 *Reply Comments of the Green Power Institute on the Staff Proposal on Procurement Review Reform*.

As a preliminary matter, we wish to reinforce a couple of overarching remarks made by Iberdrola and LSA in their *Opening Comments*. Iberdrola argues that the Commission needs to focus on several big issues first, particularly LCBF reform and the RNS calculation, before spending too much deal of time on procedural matters like the procurement review reform proposals. We agree. In particular, as we argued in our own *Opening Comments*, the review and overhaul of the LCBF methodology should be given the highest priority, and initiated forthwith.

The LSA states, on page 5 of their *Opening Comments*: “LSA is also generally concerned with a growing trend of increasing eligibility and evaluation requirements for renewables projects beyond those imposed on conventional generation projects.” We could not agree more. While it is true that all energy projects of every kind impose some burden on the environment, it is generally recognized that renewable energy projects are environmentally much less harmful than generators that run on fossil fuels. Indeed, renewables are in an entirely different class than fossil fuels. Placing more environmental scrutiny on renewables than on conventionals has the inevitable perverse effect of leading to greater

overall use of fossil fuels compared to if renewables were accorded the equivalent level of scrutiny. This is a classic case of the perfect preventing the accomplishment of the good.

Data Adequacy

In our *Opening Comments*, the GPI argued that while data-adequacy requirements can make sense, the amount of information related to a project's environmental permitting program that is requested in the Staff Proposal goes well beyond what is needed. Indeed, it virtually makes the purchasing utility and the Commission active participants in the project's permitting process. The vast majority of the commenting parties, including the IOUs and all of the project developers, made the same or similar points. The Staff Proposal overreaches in this part of the proposal, and needs to be significantly pared back or withdrawn.

The Joint Conservation Parties, in their *Opening Comments*, argue in favor of increased environmental data gathering compared to what is currently the case, in part to facilitate the process of limiting project-development risks:

The same logic can be applied to ensuring adequate information is available in the procurement process about the permitting process: achieving permitting milestones provides more certainty regarding project timing, the permitting pathway for a project, and is a reasonable approach to help minimize project failure risk. We believe that the Commission should require more detailed, consistent, and transparent permitting information as part of the procurement process. [Joint Cons. Parties, pg. 5.]

And later:

Prior to responding to the specific data adequacy question raised in the ruling, we offer some additional perspective on implementation of the data adequacy requirement. As outlined in the previous section, we see a clear need for a reasonable amount of environmental information in the procurement process to achieve the three goals: (1) minimize project viability risk; (2) better align permitting and procurement processes; and (3) improve integration with local, state, and federal processes and policies. [Joint Cons. Parties, pg. 9.]

In our opinion, the Joint Conservation Parties are misinterpreting the proper role of the Commission with respect to the use of project-risk assessment for projects on a shortlist. The Commission's role in monitoring the shortlist-selection process does not include

picking individual project winners and losers. The Commission's job is to ensure that a sufficient amount of capacity is contracted for in order to ensure that the needed amount of operating capacity is eventually achieved, given the inevitable delay or failure of some projects-in-development. There is little that the Commission can do to minimize the risk of failure for projects-in-development, other than to promptly act on PPA approvals when they are requested, and it is not within the Commission's purview to do so.

Standards of Review for Shortlists

We are concerned about some of the suggestions made by ORA in their *Opening Comments*. In particular, we are concerned about their recommendations with respect to the development of a methodology to determine and impose a threshold cutoff for inclusion on a utility's shortlist. We have not seen a demonstration of the need for such a cutoff; nor, indeed, have we even seen a definition of the proposed figure-of-merit, the Net-Market Value (NMV), that the Staff Proposal is considering creating and using for this purpose.

Our real concern is that the ORA and the Staff Proposal are, in effect, attempting to resurrect the MPR in the guise of the NMV. In fact, the MPR was purposefully discontinued by SB 2 (1X). As the IOUs and others, including the GPI, point out in their *Opening Comments*, there has been no demonstration of need for the imposition of a threshold cutoff in the construction of the utility shortlists, nor any indication that projects that have been included on shortlists in the past were not qualified to be there. Moreover, as the utilities point out, inclusion on the shortlist does not in any way guarantee that a PPA will result.

In arguing for the use of the NMV as a threshold cutoff, ORA states:

If the project's benefits outweigh its costs, then the project will have a positive NMV and the project is appropriate for the shortlist. A threshold cutoff based on NMV will provide guidance for the IOUs to select the best value projects for shortlists, and help ensure ratepayers benefit from the highest valued RPS projects while keeping costs down. [ORA, pg. 2.]

The purpose of the LCBF methodology is to ensure that non-cost attributes, such as environmental impacts and rural employment opportunities, are considered in the process of ranking project bids in preparation of a utility company's shortlist, in addition to basing the ranking on bid prices. In other words, the purpose of the LCBF process is to ensure that ratepayers benefit from the highest valued RPS projects while keeping costs down. In effect, ORA and the staff proposal are suggesting developing a new methodology whose purpose is already supposed to be accomplished by applying the LCBF methodology in the development of the shortlist. Instead of following this duplicative route, we urge the Commission to initiate the LCBF overhaul now, in order to allow the results to be used in the next RPS-solicitation cycle.

Dated May 28, 2014

Respectfully Submitted,

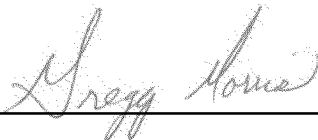


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VERIFICATION

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 *Reply 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 28, 2014, at Berkeley, California.



Gregory Morris