

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

Clean Coalition Comments on Alternate Resolution E-4559: Southern California Edison
Company Requests Approval of Four Amended and Restated Renewable Power
Purchase Agreements with Central Antelope Dry Ranch C, LLC; North Lancaster Ranch,
LLC; Sierra Solar Greenworks, LLC, and American Solar Greenworks, LLC (Silverado
Power).

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CLEAN COALITION COMMENTS ON ALTERNATE RESOLUTION E-4559

The Clean Coalition respectfully submits these comments in support of Alternate Resolution E-4459 (“the AR”).

The Clean Coalition is a California-based nonprofit organization whose mission is to accelerate the transition to local energy systems through innovative policies and programs that deliver cost-effective renewable energy, strengthen local economies, foster environmental sustainability, and provide energy resilience. To achieve this mission, the Clean Coalition promotes proven best practices, including the expansion of Wholesale Distributed Generation (WDG) connected to the distribution grid and serving local load. The Clean Coalition drives policy innovation to remove barriers to the procurement and interconnection of WDG projects integrated with Intelligent Grid (IG) solutions such as demand response, energy storage, and advanced inverters. The Clean Coalition is active in numerous proceedings before the California Public Utilities Commission, the California Energy Commission, and other state and federal agencies throughout the United States. The Clean Coalition also designs and implements WDG and IG programs for utilities and state and local governments.

I. Market Certainty for Policy Success

One of the Clean Coalition’s core principles for the design of competitive markets is that policies must provide certainty to market participants to successfully attract the significant investments associated with the deployment of new generation. A participant must be assured that good faith participation in accordance with the rules of a program such as Southern California Edison’s (SCE) Renewable Standard Contracts program will not be arbitrarily penalized by later policy changes.

The AR upholds this principle by affirming the process that Silverado navigated successfully with SCE. In this case, the procurement process was disputed and went to

mediation, delaying final approval of the contracts while market conditions and underlying policies were changing. However, since mediation is the preferable process for dispute resolution, it would be unfair and illogical to render the process moot by penalizing the parties that undertook it. Denial of the power purchase contracts that resulted from the mediation would undermine the credibility of California policies and send a signal to future potential participants that California's energy markets are highly risky.

The Commission has already affirmed this principle in Decision 11-11-012, which partially grants the Clean Coalition's motion for immediate amendments to the CREST power purchase agreement. In that Decision, the Commission agreed that the provisions that allowed for termination of the contracts based on any policy change were fundamentally unfair, and in practical terms, created too much uncertainty for investors to finance market participation. Thus, the contracts were changed and participation in the program flourished.

To ensure similar future success of Commission approved procurement programs, the Commission should remain consistent in its treatment of power contracts. The AR maintains this consistency by approving these contracts that were properly negotiated in good faith by the parties.

II. Appropriate Timing of Costs

The Clean Coalition recognizes that a primary goal of California's energy procurement policies is to procure the most cost-effective energy that fits the power and reliability needs of ratepayers. Thus, power purchase agreements are evaluated for cost-effectiveness before approval and some of these agreements will not be approved if the purchase rate is not competitive.

However, the metric of "competitiveness" must be evaluated against the appropriate

comparative costs that existed at the time at which the contracts were entered into. To do otherwise would unfairly harm the power seller and again undermine the core framework of the energy procurement market. As in this situation, if a seller has not materially changed the project and the delay in contract approval was not caused by the seller's unreasonable actions, the contract's costs should only be judged against contracts for similar generation executed around the same time.

The AR properly compares the Silverado contracts to the approved RAM 2 contracts. Then by requiring Silverado to pay for transmission and distribution upgrade costs, the Commission makes a sensible decision to protect ratepayers while preserving the contracts. This modification appropriately validates California's procurement principles and sends the correct signal for future market participation.

For the reasons stated within these comments, the Clean Coalition supports Alternate Resolution E-4559 and recommends its approval instead of the original Resolution E-4599.

Respectfully submitted,

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