

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 REPLY COMMENTS ON PROPOSED AND ALTERNATE  
DECISIONS RE SECTION 399.20 PPAS AND PETITIONS FOR MODIFICATION

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## CLEAN COALITION REPLY COMMENTS ON PROPOSED AND ALTERNATE DECISIONS RE SECTION 399.20 PPAS AND PETITIONS FOR MODIFICATION

The Clean Coalition respectfully submits these reply comments on the Commission's Proposed and Alternate Decisions on the section 399.20 tariffs, PPAs and Petitions for Modification.

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 enhance energy security. To achieve this mission, the Clean Coalition promotes proven best practices, including the vigorous expansion of Wholesale Distributed Generation (WDG) connected to the distribution grid and serving local load. The Clean Coalition drives policy innovation to remove major barriers to the procurement, interconnection, and financing of WDG projects and supports complementary Intelligent Grid (IG) market solutions such as demand response, energy storage, forecasting, and communications. The Clean Coalition is active in numerous proceedings before the California Public Utilities Commission and other state and federal agencies throughout the United States in addition to work in the design and implementation of WDG and IG programs for local utilities and governments.

### **I. Reply**

#### **a. SCE**

The Clean Coalition supports SCE's statements regarding the benefits of the APD's language regarding approval of PPAs outside of the normal AB 1969

procedure due to the additional flexibility that the APD provides (SCE opening comments, pp. 5-6).

**i. 10 MW allocation per bimonthly period**

SCE objects to the PD's requirement that each bimonthly period have at least 10 MW, if available (p. 8). The Clean Coalition supports the PD and AD as is on this issue, due to the reasons stated in the PD/AD. SCE states that the PD/AD provides "no explanation or justification" for this requirement. To the contrary, the PD explains that the desired price adjustment mechanism will function far better, as the Clean Coalition has argued, if there is enough capacity to allow a more accurate polling of the market for the appropriate price signal at any particular time.

As the PD notes, the change to 10 MW was made largely to be "truly reflective of market conditions," due to the concerns raised by the Clean Coalition, CALSEIA and others, that the erstwhile MW allocation would not represent an accurate polling of the market. In other words, having only one developer accepting a contract in each bimonthly period (as was the case under the previous allocation) would have been an extremely limited polling of the market price. It is not reasonable to suggest that one developer's decision is in any way accurate with respect to a "market signal." For these reasons, the PD changed the MW allocation to 10 MW, allowing a more reasonable polling of the market.

SCE proposes to undo this progress by reducing the increase to 5 MW. This would allow in many circumstances just two developers' decisions to represent the polling of the market and thus the "market signal." This is inadequate under the internal logic of the ReMAT mechanism and we strongly urge the Commission to reject SCE's arguments.

SCE argues (p. 10) that the PD's allocation of 10 MW per period won't allow the market to reach the "equilibrium point" for the product type at issue and won't allow the "actual market price" to be discovered. However, there is no "actual market price" in terms of a fixed and inerrant dollar figure. Rather, as we have discussed in previous comments, the "market price" is reflective of a number of factors, including the desired MW to be procured, the number of market actors, and the timeframe for procurement. The Commission has, with the 10 MW minimum allocation, struck the right balance between accurately polling the market and allowing a functional ReMAT program (with some strong caveats, as we have expressed in our opening comments) to begin.

SCE's objections also ignore the fact that California policy supports bringing renewable energy online as soon as possible (for example, California's RPS law has various milestones for achieving a given percentage of renewable energy). By ignoring the time value of bringing projects online sooner, SCE ignores one of the key policy objectives underlying the PD and state renewable energy policy more generally.

SCE also states (p. 11): "Finally, in combination with the Re-MAT price adjustment triggers, allocating 10 MW per product type for each period could make it very hard (if not impossible) for the price to decrease and very easy for it to increase." SCE's logic is not clear in this statement. As the PD makes plain, the price will decrease when all of the 10 MW per period is subscribed or there is an interest expressed by queue members in subscribing the full amount. For the peaking as-available product type, it is all but certain that the full amount will be subscribed for each utility for the first couple of bimonthly periods (as the price falls, developers may take a breather). For the non-peaking as-available and baseload product types, it is not as clear how the market will respond but even if these product types are not fully subscribed initially, the point of the ReMAT mechanism is to adjust prices to where the market will respond appropriately. So

as prices rise for these product types the market will certainly respond in such a way to bring prices down through full subscription.

Moreover, as discussed below, the Clean Coalition supports SCE's previously suggested price ceiling of \$192.50/MWh as a mitigation measure for overly high prices.

### **ii. Facility modification**

SCE argues against the PD's decision to allow facility modification without IOU consent (p. 13). The Clean Coalition feels that as long as the facility maintains the requirements under SB 32 and appropriate Commission guidance, the IOU should not have a right to consent in modifications – as the PD suggests. As we wrote in opening comments, it is our experience with the IOUs that in literally every circumstance where the IOU is granted discretion, by a tariff or rule or other precedent, it will choose the most restrictive possible interpretation. For this reason alone, we strongly support the PD on this issue.

### **iii. Forecasting**

SCE objects to the PD's option of allowing sellers to buy forecasting services from the IOU (p. 16). The Clean Coalition agrees that sellers should still have to submit availability forecasts to the buyer – as SCE argues – but only if a change in availability is forecast. The default will be normal availability, that is, no change from the availability at the beginning of the contract term, and no forecast should be required in such circumstances.

However, SCE misses the point of streamlining the ReMAT program by allowing sellers to opt in to IOU forecasting services. Even if the IOU will use third party forecasting services, as is likely the case, there will be a large increase in efficiency, as the PD observes, in having each IOU contract for forecasting for its entire portfolio rather than each seller doing so.

The PD should, accordingly, reject SCE's suggestion of eliminating this option but modify it to require sellers to submit availability forecasts where the forecast differs from the default.

**iv. The schedule should not be increased further**

SCE argues against the PD's proposed schedule for commencing the ReMAT program (p. 19): "In general, SCE supports this schedule. However, the Commission should adjust the schedule so there are at least 60 days between when the IOUs begin accepting program participation requests and the initiation of the first bi-monthly program period." The Clean Coalition objects to this suggestion. 60 days seems to be far more than is necessary to simply receive PPRs and determine their eligibility. The point of this program is simplicity and ease. SCE already has an existing FIT program (CREST), so it has experience with reviewing FIT applications. As such, the PPRs and the review process for PPRs should not be burdensome. Moreover, this new program is already extremely delayed and no additional delays should be imposed. Under the PD's suggested schedule, the program will not begin accepting PPAs until November at the earliest – literally four years after SB 32 was passed into law.

**v. Cost recovery**

We agree with SCE's comments (p. 20) regarding adding language on cost recovery.

**b. PG&E**

**i. 10 MW tranche**

PG&E suggests that the 10 MW allocation should be reduced to 5 MW, or price increases should be triggered only if less than 20% of a period's allocation is

subscribed (pp. 3-4). The Clean Coalition opposes these recommendations and suggests that SCE's previously proposed price ceiling mitigates entirely the problems that PG&E points to. We recommend again that the final decision incorporate a price ceiling of \$192.50/MWh, based on SCE's previous recommendation in this proceeding (April 9, 2012, p. 13, comments on proposed decision) to ensure that prices don't rise too high.

**ii. Randomizing applications in the first five days**

PG&E also recommends (pp. 6-7) that a lottery system be used to randomize queue applications (PPRs) received in the first five days of program commencement. The Clean Coalition supports this recommendation and we have previously recommended a lottery system as a remedy to the problem that PG&E now highlights. However, we urge the Commission to include an exception for projects currently in the AB 1969 queue, whereby AB 1969 queued projects will be provided an SB 32 queue position based on first-come, first-serve, under the following criteria. The project must: 1) have already been provided an AB 1969 queue position but not yet have received a PPA as of the ReMAT program launch (that is, the date that PPRs may be submitted); 2) have submitted a ReMAT PPR within the first five days of SB 32 program launch. All others that apply within the first five days should be included in the lottery. For future program periods, existing AB 1969 queued projects will be included in the same lottery as everyone else.

**c. DRA**

DRA recommends (p. 4) that a \$12/MWh cap on period-to-period price increase be added. The Clean Coalition supports this recommendation. A \$12 increase will only occur if there have been two previous increases already and we agree that an increase above this level is unwarranted. With this change, there will be only three price increase levels: \$4, \$8, or \$12. Combined with the \$192.50/MWh

price ceiling we recommend above, ratepayers are well-protected against excessive price impacts.

DRA, however, mistakenly calculates the price increases that will occur under D.12-05-035. The price increase formula is \$4 in the first increase, plus \$4 additional in each later increase if no decrease has occurred. Accordingly, the price increase schedule would be, for a continuous series of increases: \$4, \$8, \$12, \$16 additional from the preceding bimonthly price. This is very different than the \$12, \$24, \$40... that DRA mistakenly calculates (pp. 5-6). We show the correct price change schedule in the following chart.

<b>Bimonthly period</b>	<b>Price after increase</b>	<b>Price after decrease</b>
1	89.23	89.23
2	93.23	85.23
3	101.23	77.23
4	113.23	65.23
5	129.23	49.23
6	149.23	29.23

DRA also recommends (p. 6) that the starting price for ReMAT be re-calculated based on the most recent RAM results. The Clean Coalition strongly disagrees with this statement. It may be true (we don't know because results are not made public) that some RAM prices have come down, particularly for solar projects, but it is fairly clear, based on prior testimony and public market information, that for bioenergy (baseload) and possibly for wind (non-peaking as available) components of the ReMAT program, prices will have to rise from the starting price in order to see PPAs signed. As PCAPCD and BAC have suggested, there is a lot of concern in the bioenergy community already that it will be some time before the starting price rises to a level that can support an economically viable bioenergy project.



Moreover, even if the more recent RAM auction has lower prices for solar, ReMAT is designed specifically to allow the price to adjust quickly to account for changing market conditions. Last, the PD rejects many parties' arguments regarding burdens imposed by the IOU proposed PPA – many of which burdens are not present even in the much-larger RAM program. Any PPA signed is a combination of features that includes price, but not only price. Burdens and other requirements that are imposed by the contract must be considered in the overall balance of burdens and benefits. To look only at the RAM-based starting price, and to ignore the very heavy burdens that the PD seeks to impose on ReMAT sellers is to ignore this balancing of burdens and benefits. Also, RAM projects are much larger than ReMAT projects, leading to a lower price than is probably accurate for the ReMAT market. As such, the Clean Coalition opposes DRA's suggestion to re-calibrate the starting price.

#### **d. SEIA**

SEIA argues that the COD extensions language in the PPA should be modified, and more than one six month extension should be allowed for itemized “permitted extensions” (p. 3). The Clean Coalition agrees with SEIA's recommendations and we reiterate the unworkability of the proposed language, based on current experience with similar extension language in the CREST and other programs.

SEIA also points out an error in the PD re the annual compliance expenditures for CEC obligations (p. 4). The Clean Coalition made a similar point in our opening comments and we support SEIA's comments in this regard.

SEIA points out a logical inconsistency in the PD in its treatment of insurance requirements versus collateral requirements (p. 5). Again, the Clean Coalition

fully agrees with SEIA on this point and we urge the Commission to modify the PD to require only general liability insurance, as is the case under the current FIT program. The IOUs must show, with evidence, why higher insurance requirements are warranted, and they have not yet done so.

**e. Placer County APCD**

PCAPCD argues for a number of modifications to the PD, including revising the excess sales language in the PPA to make it more clear that sales are allowed from the facility subject to the SB 32 PPA in certain circumstances (p. 10). The Clean Coalition supports PCAPCD's recommendation.

We also support PCAPCD's recommendation of 120 days leeway for the utility termination right to apply (p. 12).

**f. BAC**

BAC argues (pp. 7-8, unnumbered pages) in favor of allowing more than one modification to contract quantity during the life of the contract. For the reasons BAC states the Clean Coalition supports this recommendation.

**g. City of San Diego**

The City of San Diego demonstrates that the IOU PPA fails to allow adequately for excess sales contracts. We support their recommendations to revise the PPA accordingly, per the direction of D.12-05-035.

## II. Conclusion

The Clean Coalition appreciates the chance to provide these comments and we urge the Commission to adopt our recommendations herein.

Respectfully submitted,

TAM HUNT

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April 15, 2013

## VERIFICATION

I am an attorney for the Clean Coalition and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in the foregoing pleading are true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 15<sup>th</sup> day of April, 2013, at Santa Barbara, California.

Tam Hunt

A handwritten signature in black ink, appearing to read 'TH', with a long horizontal flourish extending to the right.

Attorney for:

Clean Coalition