



Groups Charge California Ignoring 2009 Renewable Energy Tariff Law

January 13, 2011

Environmentalists, the solar industry and other clean-energy advocates are increasing pressure on California regulators to implement a legislatively mandated program designed to spur small-scale renewable energy projects, arguing top officials appear to be ignoring the 2009 law -- a charge the regulators deny.

The critics contend failure to implement the program is blocking numerous bioenergy projects that could help expand in-state renewable energy production and help utilities meet California's aggressive renewable portfolio standard (RPS). The RPS requires 33% of the electricity that the state's utilities provide to customers be generated by renewable resources by the end of 2020, and is a cornerstone of the state's plan to reduce greenhouse gas emissions to 1990 levels by the end of 2020.

But state regulators maintain they are actively working to implement the law, adding that staffing constraints and the implementation of other key renewable energy programs have slowed the effort.

At issue is the implementation of SB 32, a 2009 law that requires the California Public Utilities Commission (CPUC) to expand the state's "feed-in tariff" program to allow for renewable resources that are up to 3 megawatts (MW) in size, and include the value of environmental compliance costs in the rate paid to generators under the tariff. The law is primarily aimed at enabling the development and approval of small bioenergy, solar and wind projects that can connect directly to utilities' distribution systems, such as methane digesters at agricultural facilities or medium-size solar projects atop warehouse roofs, for example.

Backers of the law contend CPUC has virtually ignored the mandate, but acknowledge that the legislation did not contain any timetable or deadlines for CPUC action.

Sustainable Conservation, a California clean energy organization that focuses on methane-digester projects, charges that CPUC's failure to implement the law is putting many projects at risk. "Several new bioenergy facilities currently under construction are dependent on an SB 32

tariff going into effect the first half of 2011 (already 18 months late)," the group states in a Dec. 28 letter to California Energy Commission (CEC) officials regarding the state's Bioenergy Action Plan. "If that doesn't happen it will be very damaging to farm scale bioenergy development in California." *A copy of the letter is available at InsideEPA.com.*

The group charges CPUC has "done nothing to date to implement this legislation," according to the letter, and raises concern about a CEC statement that the program will not be implemented until the end of 2012. "Are we now to understand that it will take the CPUC three years to implement SB 32? At this rate, the next Bioenergy Action Plan will likely have similarly dismal results to report for agricultural participation in solving energy and environmental problems."

If CPUC fails to implement the program in a more timely fashion, "the financial markets may give up on California," the groups adds. "We have had three years' hiatus in digester construction, in large part because of regulatory barriers. That came to an end in 2010 as we began finding ways to surmount those hurdles. Several new facilities are now planned or in construction (also true for gasification). They are all relying on the SB 32 tariff going into effect in the first half of 2011. If that does not happen, we will have demonstrated to the financial markets that investing in bioenergy in California is too risky."

Several other environmental and clean-energy groups are echoing the same sentiments, including the California Solar Energy Industries Association, Environment California, Sierra Club and Agricultural Energy Consumers Association.

A source with state Sen. Gloria Negrete-McLeod (D-Chino), who authored SB 32, said the lawmaker will continue to "lean on" CPUC to implement the program. CPUC appears more interested in "getting their own things done because it was their own idea, and this wasn't a high priority," the source said, noting the recent CPUC approval of a renewable energy reverse auction mechanism.

But a CPUC spokeswoman contended the commission is actively pursuing the implementation of SB 32. "Implementing SB 32 continues to be a priority for the CPUC and it is within the scope of one of our existing RPS rulemakings," the spokeswoman said. "Unfortunately, we are staffing resource constrained and have not been able to implement SB 32 completely yet due to the requirements of other RPS-related work, including the [2009 American Recovery & Reinvestment Act] and RPS deadlines at the end of last year, and the completion of the policy decision on the Renewable Auction Mechanism."

The FIT Coalition, which advocates for large-scale feed-in tariffs to bolster renewable energy production, says that while the group is disappointed CPUC has failed to act swiftly on the implementation of SB 32, California needs a much broader feed-in tariff and may see better results under new Gov. Jerry Brown (D).

SB 32's program size limit of a total of 750 MW and the project size limit of 3 MW "are both too small to meet the massive annual levels of renewable energy that California needs in order to achieve its 33% RPS on schedule," a source with the FIT Coalition said. "The FIT Coalition is

hoping that, under the leadership of Gov. Jerry Brown and his soon-to-be announced appointments to the CPUC, California will finally get serious about clean local energy."

The group is sponsoring California state legislation this year for a much broader feed-in tariff for projects up to 20 MW in size.