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 08-08-009 (Filed August 21, 2008)

CLEAN COALITION REPLY COMMENTS ON PROPOSED DECISION RE SB 32 IMPLEMENTATION

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The Clean Coalition respectfully submits these reply comments on the March 20, 2012 Proposed Decision implementing SB 32.

The Clean Coalition is a California-based non-profit that advocates for vigorous expansion of the Wholesale Distributed Generation (WDG) market segment, which is comprised of renewable energy generation that connects to the distribution grid and serves local load. Since penetrations of WDG above about 20% require local balancing of supply and demand of energy, the Clean Coalition not only drives policy innovation that removes the top barriers to WDG (procurement and interconnection), but also drives policy innovations that will allow private capital to deploy Intelligent Grid (IG) solutions like demand response and energy storage. The Clean Coalition is active in proceedings at the California Public Utilities Commission, the Federal Energy Regulatory Commission, and related federal and state agencies throughout the United States. The Clean Coalition also designs and implements WDG and IG programs for local utilities and governments around the country.

Our key points may be summarized succinctly:

- The Clean Coalition agrees with the utilities' call for a price cap, and we support SCE's suggested cap of $192.50/MWh – as well as a price floor at the <u>normalized</u> RAM clearing price, as we argued for in our opening comments. This symmetry makes sense for many reasons
- If the Commission agrees that the normalized RAM clearing price should be the starting price we support SCE's call for a $2/MWh incremental adjustment, rather than $4, but only under those conditions
- The Clean Coalition strongly opposes PG&E's call to allow only bi-monthly price adjustments and eke out contracts over a two-year period. This program is already significantly delayed and no further delays should be imposed

- We agree with SCE's call for allowing a choice of interconnection procedure even after Rule 21 reform is enacted.
- We agree with TURN that the queuing mechanism may lead to inequitable queue positions, given the strong incentive to immediately submit an application. We recommend, however, that rather than limit queue positions to six months in duration, as TURN recommends, that applicants be provided a randomly-assigned queue position if queue applications are submitted on the same day. This solution will eliminate the problem TURN highlights while avoiding a scramble to submit applications the very instant the program starts.
- We agree with Silverado Power's recommendation that currently-queued feed-in tariff projects, like those under SCE's CREST program or PG&E's similar program, should be treated under existing rules rather than the new SB 32 rules. Fairness and consistency of rules demands such a result. We also agree with Silverado's recommendation that currently-queued generators in existing FIT programs be granted priority for SB 32 PPAs, over new applicants, as we argued in our opening comments.

I. Pricing

A. SCE

The Clean Coalition agrees with SCE's suggestion that a price cap of $192.50/MWh should be imposed.[1] A price cap should, however, be paired with a price floor, set at the normalized RAM clearing price, as we recommended in our opening comments. The price cap ensures that ratepayers are not made to pay beyond a certain level for SB 32 projects; the price floor ensures that the "race to unviability" will be avoided and allow

[1] PG&E also recommends a price cap, but much lower than SCE, at 150% of the starting price. We feel that this is too low a cap, considering that some product types might need a higher price than this to be viable.

developers to plan ahead with the certainty that the contract price will never fall below a certain level.

SCE's price table (p. 9, opening comments) is, however, a scare tactic that will certainly never become reality, at least for solar, which is by far the dominant technology in the SB 32 size class of 3 MW and below. It is all but assured, given the number of projects under development in California, that the risk is not that prices will rise too high under the PD's proposed mechanism (due to lack of subscriptions at the price offered) but in the other direction: toward pricing that is far too low for project viability, given the very small program size. We reiterate that the program size likely to be available under the new SB 32 program is only about 135 MW for all IOUs combined. Moreover, with the product bucket modification mechanism included in the PD, it is also likely that available capacity for non-peaking resources will be shifted to the peaking category, in substantial part, which will further limit the problem SCE highlights.

We do not oppose SCE's suggestion that the price adjustment increment should be $2/MWh rather than four – as long as the starting price is not reduced further from what the PD suggests. As we have argued in opening comments, the starting price should, instead, be normalized to account for the difference between the RAM project sizes and the 3 MW and below SB 32 project size. The starting price should also include a 10% locational adder for projects located in hot spots.

SCE's recommendation that the price adjustment increments should refresh with new queue entrants should be disregarded because joining the queue does not establish a pricing signal. Even PPA acceptance is a weak pricing signal, as we argued in opening comments, because auctions and auction-like programs create a race to unviability that is probably not indicative of prices required to complete projects. Arguably, the only accurate pricing signal is project completion at the accepted price, further demonstrating that SCE's reasoning is faulty in suggesting that simply accepting a queue position should constitute a price signal.

B. PG&E

The Clean Coalition strongly disagrees with PG&E's recommendation that the FIT price be adjusted bi-monthly and the program be extended over two years. This program is already delayed by three years and it is imperative, for a variety of reasons, that the program be made available with alacrity and that no artificial timelines are introduced to limit the availability of contracts.

C. Sierra Club

Sierra Club calls for similar price trigger adjustments as the Clean Coalition did in our opening comments, but adds the requirement that full allocation must be achieved for two consecutive months to trigger a price decline. If the Commission declines to increase the monthly bucket sizes that trigger a price decline, then we agree with this recommendation because it makes sense as a way to reduce a price "yo yo effect," which is especially likely to occur with very small monthly buckets.

II. Choice of interconnection tariff

The Clean Coalition agrees with SCE that applicants should be able to choose either Rule 21 or WDAT even after the new Rule 21 is approved. Applicant choice is appropriate in this context.

III. Queue timing

TURN raises good points regarding the queue mechanism, which will create a dash to submit applications on the first day of the program and result in awarding queue positions perhaps based on differences of mere seconds or less. This will not be an equitable result, particularly if the Commission has to assign queue positions based on what are essentially identical time stamps. Accordingly, we recommend that if applications are submitted on the same day, they are assigned a queue position randomly. Combined with our recommendations for much larger product buckets and a larger program size, this modified queuing mechanism will be far more equitable than the mechanism described in the PD. This solution will avoid an unhealthy race to submit applications the very moment the program opens and it will avoid charges of unfairness because the queue positions will be assigned randomly.

We are not, however, concerned about the related problem that TURN raises: queue hogging and selling of queue positions. On the issue of queue hogging, there won't be a problem because parties holding queue positions cannot prevent others in the queue from obtaining a PPA. All they can do is refuse the price offered, thus letting others down the queue make a choice. Queue hogging requires that the party maintaining the queue position does so at the detriment of other parties, which is not the case here.

As for selling of queue positions, the PD sets a very high eligibility bar for obtaining a queue position, requiring significant expenditures in development costs, interconnection costs and perhaps permitting costs, before a project may obtain a queue position. It seems unlikely that parties would go through this major time and effort in speculating for a queue position that they don't intend to use for that project.

We also disagree with TURN that a six-month maximum should be allowed for maintaining a queue position. Keeping in mind the longer-term program that we hope SB 32 will become, one that can accommodate smaller projects as well as larger projects, we don't want to foreclose – and nor should the Commission – the possibility of maintaining a queue position until a price can be offered that works for the project at issue.

IV. COD

Many parties suggest different COD and extension durations. SB 32 is specifically intended to procure projects that will be readily deployed, avoiding delay. As such, an 18 month COD should be the maximum unless regulatory delays beyond the applicant's control prevent completion in that period. We recommend allowing two six-month extensions under these circumstances. However, requests for extension should be made at least three months prior to the COD.

V. Seller concentration limits

We support CalSEIA's call for a seller concentration limit, but we feel that 10% is too tight. A 20% limit is more reasonable. This limit is necessary to prevent gaming, as we and CalSEIA have argued, and the concentration cap should apply both to capacity and number of projects, since a single project of any size can be used to prevent the price from reaching market level under the PD's proposed program (as we've argued, a single project does not constitute the market price).

VI. Program Size

Sierra Club calls for a larger program size, as does SEIA, supporting, at least partially, our suggestion for a doubling of the program size, using the Commission's inherent authority.

VII. Treatment of currently-queued generators

We agree with Silverado Power's recommendation that currently-queued feed-in tariff projects, like those under SCE's CREST program or PG&E's similar program, should be treated under existing rules rather than the new SB 32 rules. Fairness and consistency of rules demands such a result.

We also agree with Silverado's recommendation that currently-queued generators in existing FIT programs be granted priority for SB 32 PPAs, over new applicants, as we argued in our opening comments. If a currently-queued generator seeks a queue position and PPA under SB 32, however, the new SB 32 rules should apply for that generator. Only if the generator chooses to stay in the existing FIT program should existing rules apply.

Respectfully submitted,

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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 16th day of April, 2012, at Santa Barbara, California.

Tam Hunt

Clean Coalition