

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking to Develop
Additional Methods to Implement the
California Renewables Portfolio Standard
Program.

Rulemaking 06-02-012

FIT COALITION REPLY COMMENTS ON
ALTERNATE PROPOSED DECISION

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November 19, 2010

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The FIT Coalition respectfully submits these comments on the Alternate Proposed Decision (“APD”), pursuant to Rule 14.3 of the California Public Utilities Commission’s Rules of Practice and Procedure.

The FIT Coalition is a California-based advocacy group, part of Natural Capitalism Solutions, which is based in Colorado. The FIT Coalition advocates primarily for vigorous feed-in tariffs and “wholesale distributed generation,” which is generation that connects to distribution lines and is located close to demand centers. FIT Coalition staff are active in proceedings at the Commission, Air Resources Board, Energy Commission, the California Legislature, Congress, the Federal Energy Regulatory Commission, and in various local governments around California.

The FIT Coalition was not able to submit opening comments on the APD but we note in these reply comments that we support the APD, with two caveats: 1) that the APD shouldn’t be applied retroactively to RPS contracts; and 2) that the APD’s limitations on TRECs should apply equally to ESPs and CCAs as well as IOUs.

I. Discussion

A. The FIT Coalition supports the APD

The FIT Coalition’s primary mission is to support Wholesale Distributed Generation (“WDG”), which is distributed generation of 20 megawatts or less connected to the distribution grid (as opposed to the transmission grid). Our strong advocacy in this area stems from the fact that WDG can be interconnected much cheaper than transmission-level projects, thus saving money for ratepayers; doesn’t require new transmission lines, which can take 7-10 years to build (a major bottleneck for many larger renewable energy projects); and because WDG can be deployed relatively quickly on open space, large

rooftops and parking lots (whether it is solar, wind or other types of renewable energy). As such, we are in strong support of in-state renewable energy projects because WDG must, by definition, be in-state if it is to be distribution-interconnected.

For these reasons, the FIT Coalition supports a strict cap on the use of TRECs for RPS compliance. 25% is a reasonable level for TRECs to meet the RPS, allowing for some flexibility to meet the RPS, as well as creation of a TREC market in the West.

Accordingly, the FIT Coalition strongly supports the APD's 25% TREC limit instead of the Peevey PD's 40% revised limit.

The APD notes (pp. 3-4): "The utility petitioners and IEP failed to raise any new facts, evidence or arguments that were not available to the Commission in March 2010, or indeed the entire 2½ year period that the TRECs issue has been considered by this Commission."

The FIT Coalition believes that no material facts have been raised since March, 2010; thus, we agree with the APD's conclusions but also agree with parties such as Iberdrola that new facts have indeed been raised since March, 2010. Since no material facts have been raised, in the FIT Coalition's opinion, we support the APD with the caveats expressed below.

B. The FIT Coalition agrees with the Joint Parties that the APD limitation on TRECs should not be applied retroactively

The Joint Parties state in their opening comments¹ that the APD should not apply retroactively:

In his August 25, 2010 Proposed Decision, President Peevey calls for an important change to the March 10, 2010 Proposed Decision in this proceeding. That change was that any existing IOU contract that had been approved by the Commission prior to March 10, 2010 that would otherwise fall under the new definition of TRECs would be grandfathered for their entire terms such that they would not count toward the TREC cap. The Alternate PD should be modified to include a similar provision for all the reasons outlined in Commissioner Peevey's August 25, 2010 Proposed Decision.

The FIT Coalition agrees that the APD limitations should not apply retroactively. It is unfair to developers to require retroactive changes; nor would such requirements be congruent with established principles of contract law.

C. The FIT Coalition agrees with PG&E and TURN that TREC limitations should apply to all Load-serving entities

PG&E² and TURN³ both argue that any TREC limitations must, by law, apply equally to all load-serving entities, including investor-owned utilities, electric service providers (ESPs) and community choice aggregators (CCAs).

¹ JOINT COMMENTS OF THE ALLIANCE FOR RETAIL ENERGY MARKETS, THE DIRECT ACCESS CUSTOMER COALITION, THE CALIFORNIA STATE UNIVERSITY, THE SCHOOL PROJECT FOR UTILITY RATE REDUCTION, WAL-MART STORES, INC., COMMERCE ENERGY, INC., 3 PHASES RENEWABLES, LLC AND THE WESTERN POWER TRADING FORUM ON THE ALTERNATE PROPOSED DECISION OF COMMISSIONER DIAN M. GRUENEICH, p. 4.

² COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) ON OCTOBER 25, 2010 ALTERNATE PROPOSED DECISION OF COMMISSIONER GRUENEICH ON PETITIONS FOR MODIFICATION OF DECISION 10-03-021 AUTHORIZING USE OF RENEWABLE ENERGY CREDITS FOR COMPLIANCE WITH THE CALIFORNIA RENEWABLES PORTFOLIO STANDARD, pp. 2-3.

³ OPENING COMMENTS OF THE UTILITY REFORM NETWORK ON THE ALTERNATE PROPOSED DECISION OF COMMISSIONER GRUENEICH ON THE USE OF RENEWABLE ENERGY CREDITS

The FIT Coalition agrees with these concerns and we also note that equity and fairness, in addition to law, weigh heavily in favor of applying the same limitations to IOUs, ESPs and CCAs in this matter.

Respectfully submitted,

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

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Dated: November 19, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have served by electronic service a copy of the foregoing **FIT COALITION REPLY COMMENTS ON ALTERNATE PROPOSED DECISION** on all known interested parties of record in R.06-02-012 included on the service list appended to the original document filed with this Commission. Service by first class U.S. mail has also been provided to those who have not provided an email address.

Dated at Santa Barbara, California, this 19th day of November, 2010.



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