

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking To Continue
Implementation and Administration, and Consider
Further Development, of California Renewables
Portfolio Standard Program.

Rulemaking 18-07-003

**CLEAN COALITION OPENING COMMENTS IN RESPONSE TO THE PROPOSED
DECISION RESUMING AND MODIFYING THE RENEWABLE MARKET
ADJUSTING TARIFF PROGRAM**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) the Clean Coalition submits these reply comments on the Proposed Decision (“PD”) Resuming and Modifying the Renewable Market Adjusting Tariff Program (“ReMAT”), issued in the above captioned proceeding on August 21, 2020. The Clean Coalition is concerned that the PD is almost identical to the Staff Proposal, adopting close to zero party suggestions and blatantly ignoring others without a specified reason.

It is worth noting that the PD resuming ReMAT sets the stage for a successor Feed-In Tariff (“FIT”) that includes comprehensive discussions on other models not considered in the short timeframe of this proceeding. The PD includes the phrase, “ReMAT does not need to by itself satisfy all of the PURPA requirements imposed on states, because the New QF SOC already fulfills these requirements and without a limit on procurement,” leaving an option for future FIT programs. The answers provided in the PD are very clearly an option to resume ReMAT in an expedited fashion that can fulfill the state mandated caps, rather than a proceeding dedicated to the creation of a permanent FIT equipped with the most effective pricing mechanism. The Clean Coalition still holds the position espoused in its opening comments that such a tariff should be based on the FIT the Clean Coalition designed for the City of San Diego in 2019. In the PD, the Commission chose very specifically to not delve into the San Diego-FIT model and alternatives provided by other parties, offering the statement, “for the reasons discussed herein, we must reject parties’ other proffered methodologies as inconsistent with PURPA, FERC’s PURPA Regulations, state statutory law, or caselaw, or else not presenting a comparable transparent, verifiable methodology using actual market rates for determining ReMAT’s prices.”¹ While the Clean Coalition does not agree with the Commission’s assertion that the current PD represents a

¹ PD at 17

pricing scheme which “best satisfies all legal requirements at this time,” we do see it as leaving the door open for a more appropriate long-term FIT program. FITs have an important role to play in enabling Community Microgrids throughout California and providing local resilience through renewables-driven backup power; that role has not been considered in discussions related to ReMAT. At this time, the Clean Coalition requests that the Commission act with urgency to begin the discussion about the design of a more permanent FIT program that reflects California’s changing energy landscape.

II. DESCRIPTION OF PARTY

The Clean Coalition is a nonprofit organization whose mission is to accelerate the transition to renewable energy and a modern grid through technical, policy, and project development expertise. The Clean Coalition drives policy innovation to remove barriers to procurement and interconnection of distributed energy resources (“DER”) — such as local renewables, demand response, and energy storage — and we establish market mechanisms that realize the full potential of integrating these solutions for optimized economic, environmental, and resilience benefits. The Clean Coalition also collaborates with utilities, municipalities, property owners, and other stakeholders to create near-term deployment opportunities that prove the unparalleled benefits of local renewables and other DER.

III. COMMENTS

a. The Clean Coalition wishes to correct the record that currently does not acknowledge the reply comments of the ReMAT Coalition and the Clean Coalition.

On page 7, the PD mentions the parties that submitted opening comments and reply comments. The list of reply comments included Cal Advocates, GPI, PG&E/SCE, and SDG&E, which is not a complete list. Both the Clean Coalition and the ReMAT Coalition submitted comments in a timely fashion, which were served to parties on the service list and published to the CPUC website. The Clean Coalition asks the reply comments of both comments be reflected on the record in a final decision.

b. The Commission never considered any other legal or pricing method than the one listed in the PD.

In this instance, the Commission only ever considered the proposal it put forth in the Staff Proposal related to administratively set prices reviewed annually. Though the Commission asked for comments on the proposal, there was never an active consideration of the alternatives provided by parties, nor was there a sufficient explanation for the reason the regulatory process was conducted in this fashion. The Commission arbitrarily labels the Clean Coalition’s proposal “radical” but does so without the slightest discussion of what constitutes “radical changes” and why such changes would not create an ideal form of ReMAT. Furthermore, the GPI proposal of a series of workshops about changes if there is little demand for a product category could be adopted within the current confines of the PD and serve as a mechanism to create a timeline for future conversations about ReMAT. It is unclear why it is not adopted in the PD, especially since it was supported by other parties. The Commission saw fit to mention the idea in the PD yet provided no explanation one way or another. Leaving such ambiguity is not a successful execution of the regulatory process, it gives the impression that the Commission is going through the motions when it comes to stakeholder input without including any actual amendments to the original Staff Proposal. This mentality is alarming.

The PD offers the statement, “All of these comments are relevant to the consideration of further changes to ReMAT’s pricing mechanism at a later date in this proceeding,” a platitude which leaves the very real possibility that said proposals will not actually be considered.² Once this PD is adopted by the Commission, there is no guarantee that the Commission will have any need for further party input in the proceeding. No timeline is set for such action. Nothing in the Staff Proposal or the PD suggests that the outlined annual review process of prices by the Commission will require significant stakeholder input beyond the IOU Advice Letters. No explicit discussion about past proposals and petitions is included. Clean Coalition comments (and comments by other parties) about outstanding Petitions for Modifications (“PFMs”) were not addressed, other a single sentence saying that “this decision does not resolve outstanding petitions for modification to the ReMAT Program.”³ In that case, when should parties expect the Commission to consider PFMs that were submitted years prior to the suspension of ReMAT? FERC relies on the Allegheny Standard; does the Commission have the power to delay indefinitely? If the Commission intends to answer outstanding PFMS and proposals suggested in

² PD at 32

³ PD at 2

response to the Staff Proposal, it must be transparent about how and when a discussion will occur.

c. Locational pricing and transmission access charges should be included in the definition of avoided cost.

The Commission is making the same mistake it did in the original ReMAT decision, though this time, it is doing so with full awareness of Locational Marginal Pricing, transmission congestions, and relative resilience benefits. A proper definition of avoided cost should include these features; the PD errs in its statement that they are not relevant. Use of the transmission system incurs extra costs to the utility that a ReMAT project — interconnected via the distribution grid — does not. An analysis of California’s electric generation climate policies by the Legislative Analyst’s Office concludes of the annual reduced emissions by RPS contracts, “A variety of other costs — such as transmission and integration costs — are difficult to quantify, but could increase costs by tens of dollars per ton,”⁴ The report suggests that without factoring these costs in, the cost of reduced emissions is between \$60 and \$70 per ton; factoring in transmission losses could increase that cost by 33% — a substantial increase. The PD acknowledges that this should be considered in the review of pricing factors in 18 C.F.R. § 292.304(e), one of which is, “The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity.”⁵ Electricity sent over the transmission system results in line losses even before it reaches the distribution grid. When considering the true cost of ReMAT energy if Transmission Access Charges (TAC) were to be properly assessed, there would be a significant difference in prices, radically changing the avoided cost. Failing to consider either cannot meet the standard, “that Staff’s pricing methodology reasonably incorporates these factors.”⁶

Staff cites FERC Order 872 at page 123 (see PD footnote 105) to explain why a value of resilience and a locational adder need not be considered, which is an absurd reading of the FERC decision; it simply cites one aspect of three relevant criteria. Page 123 of Order 872 suggests that

⁴ <https://lao.ca.gov/Publications/Report/4131>

⁵ Proposed Decision at 18

⁶ Proposed Decision at 19

a state may use an average cost to account for multiple market hubs, but if the Commission were to continue reading onto Page 124, it also states that, “(2) states must determine that a liquid market hub is sufficiently liquid that its prices represent a competitive price; and (3) the market hub price may need to be subject to adjustments to account for transmission costs the electric utility would incur.”⁷ Thus, the onus is on the Commission in the Proposed Decision to prove that the pricing system represents current competitive prices — not pricing from close to a decade ago — as well as to add adjustments that consider transmission costs. Including adders, as the Clean Coalition and GPI suggest, would achieve exactly this. Failure to even consider either option is neglecting the Commission’s statutory duty under PURPA.

d. The Commission uses what is not specifically included in § 399.20 as a reason not to include aspect in the PD, rather than following logic.

In this PD, the Commission uses the argument that something is not explicitly listed in § 399.20 as a shield to refuse to consider multiple party comments. The reasoning is used when it comes to comparing ReMAT contracts with RPS prices of similar sizes, considering varied pricing in utility service territories, and the impact of historical tax credits on pricing. The PD states, “we find no language in § 399.20 requiring the commission to base pricing on project size,”⁸ a classical logical fallacy (using the lack of evidence — in this case, the lack of inclusion in PURPA — to mean it does not to be considered). In each of the three cases listed above, it is logical to consider the effect that differences may have on prices; these arguments should be taken into account by a proactive regulatory agency. However, the Commission uses § 399.20 as a crutch to keep the PD the exact same as the Staff Proposal and offer no reasonable counter to party comments. At the beginning of the PD, the Commission argues that while ReMAT does not need to exactly comply with PURPA as a primary PURPA program, it does need to follow PURPA guidelines. As one reads through the PD, it is abundantly clear that the Commission will not shift away from the exact letter of the federal law, even if it might create a more effective program. The result is an illogical program; it simply doesn’t make sense to compare one small project interconnected on the distribution grid in 2020 with a project 20 times its size

⁷ FERC Order 872 at 123-124

⁸ PD at 23

interconnected on the transmission system. The only similarity between the two is that both projects are renewable and use the label “RPS”. The pricing is not the same, nor is the use of the resource, nor is the contract. Similarly, while the legislature acknowledges the difference between the utility service territories (as does the Commission) through different procurement caps in ReMAT, the Commission is completely unwilling to consider pricing differences in each service territory. It is ironic that while the Commission refuses to consider aspects that are not required in § 399.20, it is focused on keeping the market segments listed by the legislature, even though those segments are only a requirement to consider, not to include.

IV. CONCLUSION

The Clean Coalition appreciates the opportunity to submit these opening comments in response to the ReMAT PD. Hopefully the Commission will take the opportunity to include variables related to location of energy into pricing and begin the dialogue about a long-term FIT program.

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