BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program.	Rulemaking 11-05-005 (Filed May 5, 2011)

THE DIVISION OF RATEPAYER ADVOCATES' REPLY COMMENTS ON THE PROPOSED DECISION AND ALTERNATE DECISION ADOPTING JOINT STANDARD CONTRACT FOR SECTION 399.20 FEED-IN TARIFF PROGRAM AND GRANTING, IN PART, PETITIONS FOR MODIFICATION OF DECISION 12-05-035

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I. INTRODUCTION

Pursuant to California Public Utilities Commission (Commission) Rules of Practice and Procedure 14.3, the Division of Ratepayer Advocates (DRA) respectfully submits the following reply comments to parties' opening comments on the *Proposed Decision of Administrative Law Judge DeAngelis Adopting Joint Standard Contract for Section 399.20 Feed-In Tariff Program Program (PD)* and the *Alternate Proposed Decision of Commissioner Ferron (APD)*.

DRA recommends that the Commission adopt the PD with the modifications suggested in DRA's opening comments and in these reply comments. DRA's proposed changes will enhance the effectiveness of the Feed-in Tariff (FiT) program under the Renewable Market Adjusting Tariff (Re-MAT) methodology, as well as ensure ratepayers are protected from unreasonably high costs. While DRA is not commenting on all issues raised in opening comments, silence on a particular issue should not be construed as support.

II. DISCUSSION

A. The Commission should reject requests to award a contract to a project that would exceed the 10 megawatt (MW) cap for a given period at "the original [Power Purchase Agreement] PPA price"[1] in the next period.

DRA supported the PD (and APD's) proposal to limit subscriptions to the MW offered in a period, thereby limiting ratepayer exposure to excessive costs in periods where the Re-MAT price exceeds the market price.[2] The PD and APD's proposal would reasonably balance the goals of providing transparency and guidance to the market with the goal of providing sufficient opportunity for developers.[3]

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[1] Clean Coalition Opening Comments on Proposed and Alternate Decisions re Section 399.20 PPAs and Petitions for Modification, April 8, 2013(Clean Coalition Comments), pp. 5, 14.

[2] The Division of Ratepayer Advocates' Opening Comments on the Proposed Decision and Alternate Decision Adopting Joint Standard Contract for Section 399.20 Feed-In Tariff Program and Granting, In Part, Petitions for Modification of Decision 12-05-035, April 8, 2013 (DRA Comments), p. 3. DRA realized after it filed its opening comments that it calculated the incremental price change per period by incorrectly using the price from the prior period (not the starting price) and adding the previous period's price adjustment. See DRA Comments at pp. 4-5. Nevertheless, that error does not change DRA's basic conclusion or recommendation regarding the incremental price adjustment cap.

[3] PD, p. 19; APD, p. 17. The PD and APD's proposal is in response to California Solar Energy Industries Association (CALSEIA)'s petition for modification, seeking permission for the IOUs to accept a bid if that bid meets but then exceeds the MWs allocated to a product type within a bi-monthly program period by pulling extra MWs from a later program period.

However, the Placer County Air Pollution Control District (District) and the Clean Coalition expressed concerns with the PD's and APD's proposal on exceeding the capacity allocation in a given bi-monthly period.[4] They argued that the developer whose project would exceed the 10 MW cap in a given period should be awarded a PPA at the original project size, during the next bi-monthly period, but at the same contract price as in the prior period.[5] The Clean Coalition stated:

> "The PD overlooks the fact that the downside of the PD's proposal is not simply waiting an additional two months for a PPA, but also having to accept a PPA price that may be far lower (particularly if this deferral comes later in the program, when the price drops can be far more than 0.4 c/kWh)."[6]

Adopting their proposal would render the product category cap, which is already larger than the cap adopted in the previous decision,[7] less meaningful by allowing it to expand in some cases. It would effectively become a variable cap, adding complexity and uncertainty to the program.[8] Moreover, the IOUs have all expressed concerns that the 10 MW cap may be too large, potentially exposing ratepayers to uncompetitive prices despite robust market interest in the FiT program under Re-MAT.[9] DRA urges the Commission to reject the District and the Clean Coalition's proposal.

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[4] Placer County Air Pollution Control District Comments on Proposed Decision Related to Power Purchase Agreement Contract Template for FiT Program Submitted March 19, 2013, April 8, 2013 (District Comments), pp. 2-3; Clean Coalition Comments, pp. 5, 14.

[5] District Comments, pp. 2-3. Clean Coalition Comments, pp. 5, 14.

[6] Clean Coalition Comments, pp. 5, 14.

[7] PD, pp. 10-14.

[8] For example, under the District and Clean Coalition's proposal, if a 0.999 MW project brought the amount of subscription in a period to 9.999 MW, and the next project were 3 MW in size, this could result in 12.999 MW of generation being subscribed at a given period's price.

[9] San Diego Gas & Electric Company's Comments on the Proposed Decision and Alternate Proposed Decision Adopting Joint Standard Contract or Section 399.20 Feed In Tariff Program and Granting, in Part, Petitions for Modification of Decision 12-05-035, April 8,2013 (SDG&E Comments), pp. 2-6; Southern California Edison Company's Comments on the Proposed Decision and Alternate Proposed Decision Adopting Joint Standard Contract for Section 399.20 Feed In Tariff Program and Granting, in Part, Petitions for Modification of Decision 12-05-035, April 8,2013 (SCE Comments), pp. 7-12; Pacific Gas and Electric Company's Comments on the Proposed Decision and Alternate Proposed Decision Adopting Joint Standard Contract for Section 399.20 Feed In Tariff Program and Granting, in Part, Petitions for Modification of Decision 12-05-035, April 8,2013 (PG&E Comments), pp. 2-4.

B. The Commission should adopt PG&E's proposal for providing a clear end date to the FiT program.

PG&E recommends that, starting from the period in which the first product category reaches full subscription (i.e., has 0 MW available), the FiT program should terminate no later than twenty-four months later.[10] DRA generally supports PG&E's proposal to clarify an end date for the FiT program in order to contain costs and ensure administrative ease,[11] but recommends two clarifications.

First, it is unclear if PG&E is proposing automatic termination of the FiT program after the first product type has zero MW available. DRA recommends that Commission require the IOUs to file a Tier 3 Advice Letter for approval to conclude the FiT program. This would allow for a decision to consider the context and overall status of the FiT program at that time, including such factors as the unsubscribed MW in an IOU's FiT program, and accordingly adopt the most appropriate course of action.

Second, DRA interprets PG&E's proposal for a termination date to apply to individual IOUs, and not the overall FiT program. DRA recommends that the Commission clarify that the trigger for ending the FiT Program when a category has zero MW applies to each IOU's FiT program.

DRA recommends the following changes to implement PG&E's proposal, shown in italics on PG&E's recommended changes to Conclusion of Law 53.[12]

> 53. ~~The megawatts associated with each contract reclassified to a different program will not be added back into the program unless authorized by a Commission decision~~. The FiT program *of a participating utility(Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company),* shall terminate 24 months following the first Program Period in which any product type capacity *of that participate utility* is fully subscribed. *The participating utility shall file a Tier 3 Advice Letter seeking to terminate its FiT program.*

[10] PG&E Comments, p. 5.

[11] *Id.*, p. 6.

[12] PG&E Comments, Appendix A, p. A-3.

C. The Commission should adopt PG&E's request to randomize Re-MAT queue numbers in the first week of the program.

PG&E illustrated potential administrative and technical problems at the beginning of the Re-MAT program due to a large number of initial applications, and proposed to address this by randomizing Re-MAT queue numbers in the first week of the program, similar to the procedure Los Angeles Department of Water and Power used in its FiT program.[13] Such administrative and technical problems could result in higher ratepayer costs. DRA supports PG&E's proposal because randomizing Re-MAT queue numbers in the first week of the program balances fairness with lower potential administrative burden on the IOUs, and corresponding ratepayer costs.

III. CONCLUSION

DRA generally supports the PD's proposed changes to the Re-MAT structure for the FiT program to facilitate transparency, market functions, and developer opportunity while providing for cost containment and ratepayer protections. With the modifications suggested in DRA's opening comments and herein, DRA urges the Commission to adopt the PD.

Respectfully submitted,

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April 15, 2013

[13] *Id.*

VERIFICATION

I, Diana L Lee, am counsel of record for the Division of Ratepayer Advocates in proceeding R.11-05-005, and am authorized to make this verification on the organization's behalf. I have read the

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filed on April 15, 2013. I am informed and believe, and on that ground allege, that the matters stated in this document are true.

I declare under penalty of perjury that the foregoing are true and correct.

Executed on April 15, 2013 at San Francisco, California.

/s/ DIANA L. LEE
Diana L. Lee
Staff Counsel