

10/17/2016 L. Jan Reid



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

**FILED**

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

Rulemaking 15-02-020  
(Filed February 26, 2015)

**COMMENTS OF L. JAN REID  
ON PROPOSED DECISION OF ALJ SIMON**

October 17, 2016

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## SUBJECT INDEX

	<b>Page</b>
I. Introduction .....	1
II. Summary and Recommendations .....	1
III. Proposed Findings .....	1
IV. Legal Requirements .....	2
V. Additional Deposits .....	2
VI. Refunds .....	3
VII. System Impact Studies .....	3
VIII. Conclusion .....	4
Appendix .....	A-1

## TABLE OF AUTHORITIES

	Page
<b>I. California State Law</b>	
Public Utilities Code Section 1757 .....	1,2
Public Utilities Code Section 399.20 .....	3

## **I. Introduction**

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, L. Jan Reid (Reid) submits these opening comments on the proposed decision (PD) of Administrative Law Judge (ALJ) Anne Simon in Rulemaking (R.) 15-02-020 concerning the implementation of Senate Bill 840. (Agenda ID #15203) Chief ALJ Karen Clopton mailed the PD on September 27, 2016. Opening comments are due on Monday, October 17, 2016. I will file this pleading electronically on the due date.

## **II. Summary and Recommendations**

I have relied on state law and past Commission decisions in developing recommendations concerning the RPS Plans. I recommend the following:<sup>1</sup>

1. The Commission should not require any additional security for projects that have received a Phase 1 study but have left the interconnection queue while bidding into BioMAT. (pp. 2-3)
2. The Commission should order that deposits which are not refunded should be credited to the IOU's Energy Resource Recovery Account (ERRA). (p. 3)
3. The Commission should limit a developer to one system impact study per project while the project remains in the BioMAT queue. (pp. 3-4)

## **III. Proposed Findings**

My recommendations are based on the following proposed finding:

1. State law requires that Commission decisions be supported by the findings (Public Utilities Code Section (PUC §) 1757(a)(3)) and that the findings be supported by substantial evidence in light of the whole record. (PUC § 1757(a)(4) (p. 2)

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<sup>1</sup> Citations for these recommendations and proposed findings are given in parentheses at the end of each recommendation and finding.

2. Public Utilities Code Section (PUC §) 399.20(f)(4)(A)(2)(iii) does not require a project to have an active interconnection application.  
(p. 3)

#### **IV. Legal Requirements**

State law requires that Commission decisions be supported by the findings (Public Utilities Code Section (PUC §) 1757(a)(3)) and that the findings be supported by substantial evidence in light of the whole record. (PUC § 1757(a)(4).

The Commission cannot meet the requirements of PUC § 1757(a)(3) and PUC § 1757(a)(4) unless it addresses all of the issues raised in the proceeding. The PD fails to address the issue of the Number of System Impact Studies which may be conducted for a single project. I discuss this issue in Section VII below.

#### **V. Additional Deposits**

The PD recommended that “The deposit amount--equal to three times the then-current fee under Rule 21 for a system impact study--should be collected from a Category 3 project at the time it leaves the interconnection queue while remaining in the BioMAT queue.” (PD, pp. 22-23)

As explained below, the PD’s recommendation constitutes legal error.

Reid argued that the Commission should not require any additional security from projects that have received a Phase 1 study but have left the interconnection queue while bidding into BioMAT for the following three reasons: (Reid Comments, p. 4)

1. Additional security may be financially burdensome for small developers and may discourage participation in the BioMAT program.
2. The major purpose of requiring security deposits is to ensure that bidders are serious developers and are not gaming the system by conducting price discovery for future bids.

3. Proposed Public Utilities Code Section (PPUC §) 399.20(f)(4)(A)(2)(iii) does not require a project to have an active interconnection application. An additional security deposit would be contrary to the intent of the proposed legislation because the additional security deposit would effectively punish developers who did not maintain an active interconnection application.

Since the PD's recommendation on additional bid deposits is inconsistent with PUC § 399.20(f)(4)(A)(2)(iii), the Commission should not assess additional bid deposits on BioMat developers.

## **VI. Refunds**

The PD errs when it fails to address the disposition of deposits which are not refunded.

Reid argued that: (Reid Comments, p. 5)

Deposits which are not refunded should be credited to the IOU's Energy Resource Recovery Account (ERRA). Thus, the credit of deposits will serve to reduce the overall level of ratepayer procurement costs.

The Commission should modify the PD and adopt Reid's recommendation concerning the disposition of deposits which are not refunded.

## **VII. System Impact Studies**

The PD errs because it fails to address the issue of limits on the number of system impact studies that may be conducted by a developer while a project remains in the BioMAT queue.

Reid argued that: (Reid Comments, pp. 5-6)

I recommend that a developer be limited to one system impact study while remaining in the BioMAT queue. If a developer drops out of the queue and then re-enters the queue at a later date, the developer should be allowed to conduct an updated system impact study as recommended by BAC.

...

However, a developer should not be allowed to move in and out of the [interconnection] queue more than once. Otherwise, the developer could game the system in hopes of obtaining significantly higher prices for a project's output.

Therefore, the Commission should modify the PD and adopt Reid's recommendation concerning limits on the number of system impact studies which may be conducted for a single project.

### **VIII. Conclusion**

The Commission should modify the PD as recommended by Reid for the reasons given herein.

\* \* \*

Dated October 17, 2016, at Santa Cruz, California.

/s/

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## APPENDIX

### Proposed Findings of Fact

#### Deletions

9, 10

#### Additions

12. It is reasonable to limit a developer to one system impact study per project while the project remains in the BioMAT queue. If a developer drops out of the queue and then re-enters the queue at a later date, the developer should be allowed to conduct an updated system impact study.

### Proposed Conclusions of Law

#### Changes

6. ~~In order to provide for administrative costs in the event that a forest bioenergy project both leaves the interconnection queue and leaves the BioMAT bidding queue without executing a contract, the IOU should be allowed to retain an amount equal to 10 per cent of the system impact study fee prior to refunding the balance to the proposed forest bioenergy project. Deposits which are not refunded to the developer should be credited to the IOU's Energy Resource Recovery Account (ERRA).~~

## VERIFICATION

I, L. Jan Reid, make this verification on my behalf. The statements in the foregoing document are true to the best of my knowledge, except for those matters that are stated on information and belief, and as to those matters I believe them to be true.

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

Dated October 17, 2016, at Santa Cruz, California.

/s/

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