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 REVISING FEED-IN TARIFF PROGRAM, IMPLEMENTING AMENDMENTS TO PUBLIC UTILITIES CODE SECTION 399.20 ENACTED BY SENATE BILL 380, SENATE BILL 32, AND SENATE BILL 2 1X AND DENYING PETITIONS FOR MODIFICATION OF DECISION 07-07-027 BY SUSTAINABLE CONSERVATION AND SOLUTIONS FOR UTILITIES, INC.

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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) hereby submits the following reply comments addressing parties' opening comments on the Proposed Decision (PD) revising the Feed-in Tariff (FiT) program. DRA urges the Commission to adopt the PD with the minor modifications and clarifications DRA proposed in its opening comments,[1] as well as the additional refinements discussed below.[2] DRA's proposed modifications will enhance the effectiveness of the FiT/Renewable Market Adjustment Tariff (Re-MAT) as proposed and will ensure that ratepayers are protected from unreasonable contract prices.

II. DISCUSSION

A. DRA and the IOUs agree that the PD proposed Re-MAT requires additional ratepayer protections

All three investor-owned utilities (IOUs) overwhelmingly support the basic Re-MAT pricing structure with the inclusion of a few modifications.[3] DRA sees value in several of the IOUs' recommendations regarding additional ratepayer protections and mitigation of unreasonable contract prices. Regarding price, Southern California Edison

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[1] Specifically, DRA' Opening comments on the PD, filed April 9, 2012, recommend the following modifications and clarifications:

1. Reduce the monthly incremental price adjustment from $4/MWh to $2/MWh;
2. Eliminate the requirement that the IOUs must wait 12 full months before reassigning any unsubscribed megawatts from one product category to another; and
3. Modify Conclusion of Law 49 to clarify that CSI and SGIP customers are ineligible to apply for the FiT/Re-MAT tariff unless they have completed their ten-year service as a CSI or SGIP customer.

(DRA Opening Comments on the PD, pp. 1-8.)

[2] Although not further addressed in these reply comments, DRA urges the Commission not to modify the PD's findings and conclusions regarding the Commission's disinclination to include locational adders and technology specific carve outs in the FiT program. The PD clearly and correctly indicates why inclusion of locational adders and technology specific carve outs contradicts state and federal law as well as the Commission's own policy guidelines for the program.

[3] SCE Opening Comments on the PD, p. 4; PG&E Opening Comments on the PD, p. 1; SDG&E Opening Comments on the PD, p. 3.

Company (SCE) and Pacific Gas and Electric Company (PG&E) correctly state that the goal of the program is not renewables at any cost.[4] Moreover, DRA and the IOUs agree that allowing the Re-MAT price to increase indefinitely does not align with the ratepayer indifference clause, §399.20(d)(3), or the Commission's second policy guideline which is to "contain costs and ensure maximum value to the ratepayer and the utility."[5]

Although the IOUs' proposed modifications address a number of components of the PD, DRA focuses on those modifications that advocate for the inclusion of additional ratepayer protections and enhance the IOUs' authority to curb prices from increasing disproportionally. Specifically, as detailed below, DRA recommends that the Commission make the following modifications to the PD:

1. Adopt a $2/megawatt hour (MW/h) incremental monthly price adjustment for the Re-MAT as supported by DRA, SCE, and San Diego Gas and Electric Company (SDG&E) in opening comments;[6]
2. Establish a price ceiling or cap to prevent product category prices from increasing indefinitely, as suggested by DRA, SCE, PG&E and SDG&E in opening comments;[7]
3. Consolidate any and all unsubscribed megawatts from the product categories into one unified category, offered on a first-come first serve basis at the end of the program time period instead of allowing the unsubscribed megawatts in a product category to accumulate in subsequent months at a possible higher tariff price; and
4. Decrease the monthly tariff price for a product category once the monthly allocation is fully subscribed as supported by SCE and PG&E in opening comments.[8]

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[4] SCE Opening Comments on the PD, p. 10; PG&E Opening Comments on the PD, p. 3.

[5] PG&E Opening Comments on the PD, p. 3.

[6] See DRA Opening Comments on SB 32 Staff Proposal, pp. 9-11 (November 2, 2011); Reply Comments of DRA on SB 32 FiT Staff Proposal, pp. 10-12 (November 14, 2011).

[7] SCE Opening Comments on the PD, p. 14; PG&E Opening Comments on the PD, p.3; SDG&E Opening Comments on the PD, p. 9.

[8] SCE Opening Comments on the PD, p. 15; PG&E Opening Comments on the PD, p. 6.

1. Adopt a $2/MWh incremental monthly price adjustment

DRA, SCE and SDG&E are all in favor of a reduction in the incremental monthly adjustment price from $4/MWh to $2/MWh to serve as a necessary cost-containment mechanism for ratepayers.[9] The IOUs emphasize the unpredictability of the smaller, distributed generation renewable market and the lack of developers in certain product categories as conditions that could result in unfavorable price increases for ratepayers. These concerns mirror those brought forth by DRA. In order to implement cost containment for the market-based Re-MAT program, SDG&E asserts that the Re-MAT should include "ratepayer protection measures similar to those built in to all other renewable market procurement."[10] Similarly, SCE notes that the Commission should institute some protections against market distortion and non-competitive pricing.[11] Finally, PG&E argues that price escalation is not in the customers' interest, especially when the Legislature has indicated a concern about the cost of renewable resources.[12] Due to these concerns, DRA maintains that the Commission should adopt its recommendation to reduce the incremental monthly price adjustment to $2/MWh. As presented by DRA in opening comments, a reduction in the monthly adjustment price by half will significantly help to contain program costs for ratepayers. In addition, a $2/MWh monthly price adjustment will allow the tariff to subscribe gradually especially if the Commission determines that the program should continue for multiple years.

2. Establish a Price Cap

DRA, SCE, and PG&E all support the creation of a price cap as a necessary mechanism to limit customer exposure to unreasonable prices and as a barricade against

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[9] SDG&E Opening Comments on the PD, p. 8; DRA Opening Comments on the PD, p. 3; SCE Opening Comments on the PD, p. 13. PG&E supports a $4/MWh monthly priced adjustment mechanism every other month (PG&E Opening Comments on the PD, p. 2).

[10] SDG&E Opening Comments on the PD, p. 7.

[11] SCE Opening Comments on the PD, p. 4.

[12] PG&E Opening Comments on the PD, p. 3.

market manipulation. Specifically, DRA supports a soft ceiling price cap of $180/MWh for Re-MAT. When the tariff for a particular product category reaches $180/MWh, the IOUs can begin to redistribute megawatts from this product category to another.[13] SCE proposes a program cap at $192.50/MWh based on the cap of SCE's Commission-approved Solar Photovoltaic Program.[14] PG&E suggests a cap of $133.85/MWh which is equal to 150% of the base price of $89.23/MWh.[15] Lastly, SDG&E advocates that a reassignment mechanism be activated when prices hit $173 - $179/MWh in months six and nine (at a $4/MWh incremental price and $2/MWh incremental price respectively) for all remaining megawatts in a product category.[16] Accordingly, the IOUs are in unison regarding the need for inclusion of a price cap or threshold for Re-MAT as an important cost-containment mechanism. Unlike the Renewable Auction Mechanism (RAM) program, the PD does not give the IOUs the authority to reject bids on the basis of market manipulation or collusion. Thus, the enforcement of a program price cap would help tremendously to mitigate ratepayer exposure to high-priced contracts.

3. Consolidate all unsubscribed megawatts from the product categories into a unified category offered on a first come, first serve basis

DRA advocates that the Commission adopt a mixture of SCE and PG&E's proposals to establish a unified generic category for all unsubscribed megawatts. Under the proposed Re-MAT structure, any unsubscribed megawatts in one month will roll over into the next month to be offered at a potentially higher price. Thus, at the end of the initial 12-month program period the IOUs could have their total program allocation for a product type available at a high tariff price.[17] Both SCE and PG&E see this as a major

[13] DRA Opening Comments on the PD, p. 6.

[14] SCE Opening Comments on the PD, p. 14.

[15] PG&E Opening Comments on the PD, p. 3.

[16] SDG&E Opening Comments on the PD, p. 9.

[17] SCE notes, for example, that 50 MWs of capacity could be offered in one product category at a price of $353.23/MWh. (SCE Opening Comments on the PD, p. 8.)

flaw with the Re-MAT structure, and DRA agrees that this situation is not in the best interest of ratepayers. Instead, the reallocation mechanism as provided in the PD should be replaced with a mechanism that allocates all unsubscribed megawatts—regardless of product category—into one single category at the end of the program period. As proposed by PG&E, the megawatts in that single category would be offered on a first-come, first-serve basis at a tariff price equal to the lowest price offered among the three product categories at the end of the first year.[18]

DRA maintains its support for the inclusion of a $180/MWh soft ceiling.[19] However, the use of a single generic category for unsubscribed megawatts complements DRA's recommendation and both proposals serve as effective cost-containment alternatives to the PD's proposed reallocation structure. Like DRA's $180/MWh soft ceiling proposal, a single generic category for unsubscribed megawatts would work within any program time-frame adopted by the Commission.

4. Decrease the tariff price for a product category once the monthly allocation is fully subscribed

DRA agrees with both PG&E[20] and SCE[21] that the tariff price in a product category should decrease once the monthly megawatt allocation for that product category is fully subscribed and regardless of whether there are five eligible projects in the queue. DRA recommends the Commission adopt this provision in the PD as a cost-containment mechanism for ratepayers. DRA notes that a fully-subscribed monthly megawatt allocation is a strong indication of market equilibrium in that product category and thus the tariff price for that product category should decrease. This cost-containment mechanism will serve as a disincentive for participants to postpone execution of a contract with the expectation of receiving a higher tariff price at a later time.

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[18] PG&E Opening Comments on the PD, p. 8.

[19] DRA Opening Comments on the PD, p. 6.

[20] PG&E Opening Comments on the PD, p. 6.

[21] SCE Opening Comments on the PD, p. 15.

III. CONCLUSION

Cost-containment mechanisms—i.e., a program price cap and reduction in the monthly price adjustment mechanism—should be incorporated into the FiT program. Commission adoption of the FiT PD with the above-suggested minor modifications and clarifications will guarantee additional ratepayer protections while ensuring a robust FiT program.

Again, DRA recommends that the PD incorporate the following modifications and clarifications:

1. Reduce the monthly incremental price adjustment to $2/MWh;
2. Institute a program price cap to contain costs and prevent prices from increasing unnecessarily;
3. Consolidate any and all unsubscribed megawatts from the product categories into one unified category, offered on a first-come first-serve basis at the end of the program time period;
4. Decrease the monthly tariff price for a product category once the monthly allocation is fully subscribed.

Respectfully submitted,

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April 16, 2012

VERIFICATION

I, Matt Miley, 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 **"THE DIVISION OF RATEPAYER ADVOCATES' REPLY COMMENTS ON THE PROPOSED DECISION REVISING FEED-IN TARIFF PROGRAM, IMPLEMENTING AMENDMENTS TO PUBLIC UTILITIES CODE SECTION 399.20 ENACTED BY SENATE BILL 380, SENATE BILL 32, AND SENATE BILL 2 1X AND DENYING PETITIONS FOR MODIFICATION OF DECISION 07-07-027 BY SUSTAINABLE CONSERVATION AND SOLUTIONS FOR UTILITIES, INC."** filed on April 16, 2012.

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 16, 2012 at San Francisco, California.

/s/ MATT MILEY
Matt Miley
Attorney for the Division of
Ratepayer Advocates