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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program.

Rulemaking 11-05-005
(Filed May 5, 2011)

**ADMINISTRATIVE LAW JUDGE'S RULING
SETTING PREHEARING CONFERENCE**

A. Notice

A prehearing conference (PHC) in the above-entitled matter will be held before Administrative Law Judge (ALJ) Anne E. Simon, June 13, 2011 at 1:30 p.m., in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California. Questions about the PHC date, time, or place should be directed to the Calendar Clerk at (415) 703-1203. Parties desiring expedited or daily transcripts should advise the Chief Hearing Reporter by telephone at (415) 703-2288, no later than three days prior to the PHC.

The PHC will focus on identifying high-priority issues in the implementation of the California renewables portfolio standard (RPS) to be considered in this proceeding and developing a preliminary schedule for the proceeding.

B. Preliminary Identification of Priorities

In order to maximize the productivity of the PHC, it would be helpful for parties, in advance of the PHC, to provide their preliminary views on the highest priority topics for the initial months of this proceeding. However, since the PHC

will be held shortly after the submission of reply comments on this Order Instituting Rulemaking (OIR) on June 9, 2011, parties should not file separate PHC statements. Rather, in their comments and/or reply comments on the OIR, parties are requested to include a section headed "Initial Priorities" that should address the following issues, including brief explanations of the reasons for the proposed priorities:

- The party's three highest priorities among the principal topics identified in Attachment A¹ to this ruling (or any other topic identified in this rulemaking that the party considers a high priority);
- The party's rough order of priority for the remaining topics;
- A proposed schedule for addressing the identified three highest-priority topics; and
- Whether, and if so, why, any of the party's three highest-priority topics may require evidentiary hearings.

Parties are reminded that Ordering Paragraph 9 of the OIR provides:

Active parties in Rulemaking 08-08-009 shall coordinate with other active parties to determine whether or not there is agreement on the issues, priorities, schedule and any other matters to be considered in this proceeding. If there is agreement, parties shall use reasonable efforts to seek to file and serve one joint comment statement reflecting consensus on issues, priorities, schedule and related matters, along with separate comments on other matters to the extent necessary.

Parties new to the RPS proceeding, or newly active in it, are also encouraged to coordinate with other parties in exploring and reaching agreement on the issues, priorities, schedule and any other matters to be considered in this proceeding

¹ This attachment is derived from section 3.1 (issues) and Attachment A (implementation of Senate Bill x1 2 (Simitian), Stats. 2011, ch. 1) of the OIR.

ATTACHMENT A

PRELIMINARY LIST OF TOPICS TO BE CONSIDERED IN THIS PROCEEDING

1. Modify Renewables Portfolio Standard (RPS) compliance rules
 - Adopt new RPS compliance targets by January 1, 2012;
 - Modify flexible compliance rules, including implementing different banking rules for different types of RPS contracts;
 - Modify annual compliance reporting requirements;
 - Resolve seams issues between the 20% RPS and 33% RPS compliance requirements, including implementing the provision that any retail seller procuring RPS eligible energy for at least 14% of retail sales in 2010 shall not have its RPS procurement deficits, if any, added to future procurement requirements;
2. Modify renewable energy credit (REC) trading rules
 - Modify the definition of a renewable energy credit to eliminate delivery requirement and other changes;
 - Modify REC trading rules to provide that, in order to count for RPS compliance, RECs must be retired in the tracking system within 36 months from the initial date of generation of the associated electricity;
 - Adopt rules for evaluating, and possibly auditing, the portfolio content category of all RPS transactions;
 - Define new terms, e.g., “firmed and shaped,” “incremental energy” and “unbundled” RECs;
 - Implement usage limitations on REC transaction;
 - Develop rules for contracts executed prior to June 1, 2010, including determining what it means for a contract to “count in full” toward RPS procurement requirement;
 - Develop a methodology for evaluating whether “procurement content requirements” (e.g., REC usage limits) should be reduced at the request of a retail seller.

3. Modify RPS procurement rules

- Review and modify the bid evaluation methodology (i.e., least-cost best-fit (LCBF)) to:
 - include evaluations of project viability and workforce recruitment;
 - consider topics such as integration cost adders; REC-only transactions; resource adequacy value; congestion cost adders; appropriate allocation of risk.
- Adopt minimum margins of over-procurement;
- Modify annual RPS procurement plan requirements to include potential compliance delays, a status update on projects' development schedules, price adjustment mechanisms and risk assessments;
- Implement requirement that retail sellers must procure minimum quantity of long-term contracts prior to counting short-term contracts with existing facilities for RPS compliance, in place of requirement in D.07-05-028 setting minimum quantity of long-term contracts and/or short-term contracts with new facilities prior to counting short-term contracts with existing facilities;
- Integrate REC-only transactions into all aspects of RPS procurement;
- Revise fast-track advice letter procedure to:
 - include REC-only transactions;
 - make other modifications based on experience with process and anticipated needs.
- Implement new requirements for approving utility-owned renewable energy generation facilities.
- Develop a methodology for giving preference to "California-based projects," including defining this term.
- Interpret and implement provision that RPS transactions must be submitted for CPUC review "unless previously preapproved by the commission";
- Develop classification of RPS contracts using firm transmission;

4. Develop RPS cost containment mechanism;
 - Develop a methodology for calculating and administering an RPS cost limitation for each large and each multi-jurisdictional utility.
5. Implement Pub. Util. Code § 399.20, as amended
 - Establish methodology to determine market price for standard tariffs;
 - Set up process for expedited interconnection procedures;
 - Complete other tasks for introduction of standard tariff.
6. Modify RPS enforcement rules
 - Establish the process and rules for implementing new RPS enforcement regime, including review of penalty rates and caps.
7. Modify and develop new rules for small and multi-jurisdictional utilities
 - Revise RPS rules for multi-jurisdictional utilities and qualifying successor entities in accordance with SBx1 2;
 - Implement new RPS rules for very small utilities.
8. Revise Standard Terms and Conditions of RPS procurement contracts.
 - Green attributes;
 - Eligibility;
 - Whether or not to add a term that provides for ongoing Commission jurisdiction over contract terms and conditions.
9. Develop need assessment methodology to determine RPS resource need and integration into RPS procurement plans.

(END OF ATTACHMENT A)