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

Order Instituting Rulemaking to Integrate) Rulemaking 10-05-006
and Refine Procurement Policies and) (Filed May 6, 2010)
Consider Long-Term Procurement Plans.)
_____)

**JOINT RESPONSE OF CALIFORNIANS FOR RENEWABLE ENERGY, INC. AND
SOLUTIONS FOR UTILITIES, INC. TO QUESTIONS POSED IN ADMINISTRATIVE
LAW JUDGE'S RULING ON CONVERGENCE BIDDING - TRACK III**

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Dated: July 19, 2010

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OF THE STATE OF CALIFORNIA**

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Pursuant to the ALJ's July 1, 2010 Ruling on Convergence Bidding, Track III, Californians for Renewable Energy, Inc (CARE) and Solutions For Utilities, Inc. provide the following responses to questions posed in the ALJ's Ruling.

I. Introduction

On July 1, 2010, Administrative Law Judge (ALJ) Victoria S. Kolakowski issued "Administrative Law Judge's Ruling on Convergence Bidding-Track III," in the above-entitled rulemaking.

At page 2 thereof, Number 2, entitled, "Convergence Bidding," the Ruling states, quote:

"Convergence bidding (otherwise known as "virtual bidding") is a financial instrument designed to allow market participants to take arbitrage (emphasis added) opportunities in expected price differences between Day-Ahead and Real Time markets. Using virtual bids, market participants can sell energy in the Day-Ahead market, with the explicit requirement to buy that energy in the Real Time market without intending to physically consume or produce energy in real time."

The Encarta Dictionary describes "arbitrage" as, quote:

"Simultaneous buying and selling, the simultaneous buying and selling of the same negotiable financial instruments or commodity in different markets in order to make an immediate profit without risk."

Convergence bidding for real time and virtual electric service is not something that a regulatory agency can oversee because there is no mechanism to review these bids for accuracy or for the bidders' ability to produce what it is saying that it can produce.

Also, this ignores the financing needed by independent power producers. What bank will finance a project that has to win virtual bids in order to make payments on its loans? If there is no financing available from banks for this kind of enterprise, then only large companies or those with independent financing can participate. What role does that leave small renewable energy producers?

Small renewable energy producers have to find a bank that will finance their startup costs, their interconnect costs including the interconnect costs that the regulated utility that is interconnected-to won't tell the renewable energy producer until after a lot of start-up money has been spent. These banks and financing entities need to be assured of repayment; they can't be told that they will be repaid only if the IPP can win some virtual bids.

II. Threshold Questions Posed in ALJ's July 1 Ruling:

1. *Why should or should not the IOUs participate in the convergence bidding market? Please specify the potential costs and benefits to both ratepayers and shareholders.*

The IOUs' shareholders should participate in the convergence bidding market as each IOU deems appropriate for its shareholders only for the first two years of this new program. As California's ratepayers are currently suffering historically bad economic conditions, (high foreclosure rates and high unemployment rates), now is not the time to gamble ratepayer's dollars.

The benefit to ratepayers, if the IOU shareholders do or *do *not decide to participate (*as described further herein) are: (A) Ratepayers are left unaffected; and (B) Both ratepayers and shareholders benefit from a two-year learning curve.

Another benefit to ratepayers is a period of two years to absorb other rate increases already potentially proposed prior to ratepayers being responsible for unknown potential losses of their IOU in the convergence bidding market by their IOU.

Shareholders or stockholders are intrinsically risk takers. Shareholders or stockholders are willing to take the risks for the possible benefits; that is why they are shareholders/stockholders. The customers of the IOUs are utility clients out of necessity. They are residences and businesses who must purchase their utilities from the IOUs. The ratepayers, the customers of the IOUs, have not agreed, as part of accepting utility services, to wager and gamble with a new convergence bidding market that could directly result in their owing money to their utility company for losing bids.

2: *What risks will ratepayer and shareholders face if IOUs do participate in the convergence bidding market?*

If IOU shareholders do participate in the convergence bidding market, ratepayers will not be affected vis-à-vis any risk for this first two-year period. Shareholders are in control of what risks they choose to take in the convergence bidding market.

3: *What risks will ratepayers and shareholder face if IOUs do not participate? What are the risks, if any, to ratepayers if the IOUs do not participate in the convergence bidding market and only traders and generators participate?*

If IOUs do not participate, but only traders and generators participate, ratepayers are unaffected. At this time, until the convergence bidding market has historical data for analysis purposes, the risks to ratepayers if the IOUs do not participate is to be left in the same position they are today.

Shareholders' risk could be a missed opportunity for income from market participation by their IOU.

III. Risk and Benefit Assessment, Participation Standards and Interactions With Other CAISO Products

To reply to Questions 4 - 18 of the ALJ's July 1 Ruling, Joint Parties would suggest the following for Commission consideration:

During the first two years of the convergence bidding market, IOU shareholders only will participate. The suggested program is similar to what

new traders of online trading programs may participate in, a trial version where the client can make hypothetical trades for a 30-day period to learn the market and decide if they should participate for real.

We would suggest that each IOU shall contract with an Independent Auditor and an Independent Scheduler (approved by CAISO) to audit the data submitted by the IOU and to report to the CPUC and stakeholders.

During this two-year trial period, on any day that the IOU shareholders decide not to actually make a bid, the IOU representative normally charged with this function would create a "pro forma only bid" using their best judgment as to what purchase or sale bids would have been entered that day if the IOU shareholders had made an actual bid.

Each trading day an actual bid or a "pro forma only bid" is to be prepared and sent to the Independent Auditor and Independent Scheduler to be included in their work-product. In this manner, the Independent Auditor and Independent Scheduler have daily information to create their reports and perform auditing functions. The Independent Auditor and Independent Scheduler would perform auditing function of the data submitted by the IOUs in their respective forensic areas of expertise. Monthly reports by the independent contractors will also critique the "Pro Forma Only Bids" as to their reasonableness, fairness and justice shown in those bids.

The Independent Auditor and Independent Scheduler would submit their reports to the CPUC and the service list for this proceeding on a monthly reporting basis during the two-year trial period. The Independent Auditor's report should follow the same template as the IOUs' reports to the Independent Auditor. A sample "Convergence Bidding Report - 2-year Trial Period" would have the following basic information and is attached hereto.

The proposed two-year, shareholder-only-participation data will be invaluable for the Commission and stakeholders' analysis of ALJ Kolakowski's questions numbered 14, 15, 16, 17 and 18.

ALJ's Question 19: What steps should the Commission take to ensure that an IOU's participation in the virtual bidding market does not benefit the IOU's affiliates in energy or other CAISO products?

Perhaps it would be best that IOU affiliates may not participate in the convergence bidding market until the two-year period is concluded. In that way, the Commission and stakeholders will have the opportunity to review the data and reports the Independent Auditor and Independent Scheduler provide in conjunction with the dynamics of the market's performance during that timeframe.

It would seem imprudent, unjust and unfair to ratepayers to allow IOU Affiliates to bid with (or against) their affiliated corporation where profits, losses, and tax planning strategies for the umbrella corporation could undermine the competitive and transparent qualities of this new market.

Thank you for the opportunity to discuss this important issue.

Respectfully Submitted,

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Dated July 19, 2010

cc: Service List R.10-05-006

Verification

I am an officer of Solutions For Utilities, Inc., the corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters which are therein 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.

Executed on July 19, 2010, at Vista, California.

/S/ Mary C. Hoffman

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I am an officer of the Intervening Corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters, which are therein 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.

Executed on this 19th day of July 2010, at San Francisco, California.



Lynne Brown Vice-President
CALifornians for Renewable Energy, Inc.
(CARE)

Certificate of Service

I hereby certify that I have this day served the document, "**JOINT RESPONSE OF CALIFORNIANS FOR RENEWABLE ENERGY, INC. AND SOLUTIONS FOR UTILITIES, INC. TO QUESTIONS POSED IN ADMINISTRATIVE LAW JUDGE'S RULING ON CONVERGENCE BIDDING - TRACK III**" under CPUC Docket R.10-05-006. Each person designated on the official service list has been provided a copy via email, to all persons on the attached service list on July 23, 2010 for the proceeding R.10-05-006 transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

July 23, 2010 (Re-service)

/S/ Mary C. Hoffman

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Convergence Bidding Report-Trial Period

Month: _____ Year _____

IOU: _____

ACTUAL BIDS				ACTUAL	BIDS					
DATE	MWhs Bought	MWhs Sold	Description of Product	Affiliate Involved?	Purchase Price	Sales Price	Cost/Expense	Cost/Expense	Net Profit /<Loss>	
SubTotal									*****	
PRO FORMA ONLY BIDS				Pro Forma	Only Bids					
SubTotal									****	
Less Monthly I.A. and I.S. Fees									< >	

Monthly Net Profit or Loss

\$ _____

Details of Affiliate Transactions:

For each Affiliate Transaction identified in this Month's Report, please identify the date of the transaction and the name of the Affiliate involved in sufficient detail to identify the transaction involved, on an attached sheet.

Rational for Pro Forma Only Bids:

For each Pro Forma Only Bid, please provide the criteria used to create the Pro Forma Only Bid on an attached sheet.