
PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 25, 2004

TO: PARTIES OF RECORD IN RULEMAKING 04-04-026

On June 14, 2004, Decision 04-06-014, the final decision of the Commission in R.04-04-026, was mailed to the parties without the dissent of Commissioners Loretta M. Lynch and Carl Wood. The dissent is now available, and is enclosed herewith.

Very truly yours,

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:mnt

Attachment

**Dissent of Loretta Lynch and Carl Wood to D.04-06-014
RPS Standards Terms and Conditions**

This order, like D.04-06-015, should have received unanimous support. We are all supportive of moving decisively and efficiently to allow for new renewables solicitations. Unfortunately, we were deprived of this opportunity because each order unnecessarily flaunts the law.

The problem with this order is that it delegates approval of the utilities' renewables procurement plans to the Staff. This commission lacks the authority to delegate this type of decision to anyone else, whether it is a staff member, an ALJ, or a subset of the commissioners. Only a majority of the commissioners, voting within a quorum, can do it.

Taking this illegal path is not necessary, even if the goal is to undertake new renewable solicitations by June 30th. Senate Bill 1078 merely requires that a plan be approved at least 90 days before a utility receives power from a winning bidder. There was time for the Commission to do this the right way – we could have required the utilities file plans in the RPS docket and, after developing an adequate record, issued a Commission order ruling on the adequacy of the plan. Because the Majority Decision nonetheless skirts around our legal obligations, we dissent from this opinion.

/s/ LORETTA M. LYNCH
Loretta M. Lynch
Commissioner

/s/ CARL WOOD
Carl Wood
Commissioner

San Francisco, California
June 9, 2004

R.04-04-026
D.04-06-014