

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development.

Rulemaking 01-10-024
(Filed October 25, 2001)

**ASSIGNED COMMISSIONER'S RULING GRANTING
MOTION FOR RECONSIDERATION BY THE
INDEPENDENT ENERGY PRODUCERS ASSOCIATION**

On September 10, 2003, the Independent Energy Producers Association (IEP) filed a Motion for Reconsideration (Motion) of a previous Assigned Commissioner's Ruling (ACR).¹ This Ruling grants that Motion, and revises the applicable language relating to the federal Production Tax Credit (PTC).

Background

Pursuant to a Ruling by the assigned Administrative Law Judge, responses to IEP's Motion were filed and served on September 22, 2003 by Southern California Edison (SCE), The Utility Reform Network (TURN), Pacific Gas & Electric (PG&E), Center for Energy Efficiency and Renewable Technologies (CEERT), and Green Power Institute (Green Power). All of the responses supported IEP's Motion.

¹ The full caption of the Motion is: Motion for Reconsideration by the Independent Energy Producers Association of the Assigned Commissioner's Ruling (dated August 13, 2003) Specifying Criteria for Interim Renewable Energy Solicitations.

Discussion

The August 13 ACR required that each utility, as part of its RFO/RFP process for interim renewable energy solicitations, stipulate that any funds received by bidders from the federal PTC be passed through entirely to ratepayers.

IEP argues that this requirement is very burdensome due to the complex business and accounting requirements relating to the PTC, may raise serious confidentiality issues, and could otherwise complicate the renewable procurement process. TURN generally concurs with these arguments.

Green Power argues that the effect of the requirement will be that developers will assume, in pricing bids, that their projects will receive no PTCs, resulting in higher bid prices and correspondingly higher costs of renewable procurement.

The arguments presented are persuasive, as is the fact that they come from a wide range of perspectives. Accordingly, the ACR will be modified, consistent with IEP's recommendation.

IEP proposes that the ACR language on this issue be changed to read:

Each utility issuing a solicitation should stipulate in its RFO, and in subsequent negotiations with bidders, that each bidder should submit two price offers. One price offer will apply if the federal PTC is not extended. The second price offer will apply if the federal PTC is extended. This condition should also apply to any bilateral contracts proposed outside of a competitive solicitation process. This stipulation is necessary given the present uncertainty surrounding renewal of the PTC in 2004.²

² This paragraph would replace the second full paragraph on page three of the ACR, beginning with "Each utility issuing...."

PG&E endorses the IEP approach. TURN also endorses it, while recommending further “clarifications” relating to solar and geothermal projects. At this time we decline to make the additional provisions requested by TURN, and we adopt IEP’s recommended language.

IT IS RULED that:

1. The Motion of the Independent Energy Producers Association is granted.
2. The language of the Assigned Commissioner’s Ruling is modified as described above.

Dated September 29, 2003, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Assigned Commissioner’s Ruling Granting Motion for Reconsideration by the Independent Energy Producers Association on all parties of record in this proceeding or their attorneys of record.

Dated September 29, 2003, at San Francisco, California.

/s/ HELEN FRIEDMAN
Helen Friedman

N O T I C E

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