



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking To Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program.

**FILED**  
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Rulemaking 18-07-003

**ASSIGNED COMMISSIONER'S AND ASSIGNED ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON PROPOSED MODIFICATIONS TO THE RENEWABLE MARKET ADJUSTING TARIFF PROGRAM**

**Summary**

This ruling seeks comments from parties on proposed modifications to the Renewable Market Adjusting Tariff (ReMAT) program so that procurement under the ReMAT program may resume promptly. Staff proposes to use administratively determined prices by product category with a time-of-delivery adjustment. The staff proposal would replace ReMAT's adjusting pricing mechanism and eliminate the bi-monthly program periods and program period caps. These proposed changes are necessary to bring the ReMAT program in compliance with an order from the federal district court. The proposed modifications are found in the Attachment hereto.

Parties may respond to the proposed modifications attached to this ruling by July 21, 2020, with reply comments due by July 28, 2020.

**1. Background and Procedural History**

**1.1. Scope of Proceeding**

The Assigned Commissioner's Scoping Memo and Ruling was issued on November 9, 2018, and identifies the scope of issues to be considered in this rulemaking. One of the issues is "[r]evisiting and possibly revising the RPS feed-in tariffs," including the ReMAT program.<sup>1</sup> Another issue is "revising, as needed, all RPS procurement

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<sup>1</sup> Scoping Memo at 4 (Nov. 9, 2018).

methods and tariffs, such as ... ReMAT...”<sup>2</sup> The present proposal to adopt modifications to ReMAT’s pricing terms and associated tariffs is therefore properly within the scope of this proceeding.

## **1.2. The ReMAT Program**

The Commission adopted the ReMAT program in 2012 as a new pricing mechanism for the Commission’s § 399.20 Feed-in Tariff (FiT) Program to implement statutory amendments to Public Utilities Code § 399.20, enacted by Senate Bill (SB) 380 (Kehoe, Stats. 2008, ch. 544, § 1), SB 32 (Negrete McLeod, Stats. 2009, ch. 328, § 3.5), and SB 2 of the 2011-2012 First Extraordinary Session (Simitian, Stats. 2011, ch. 1). § 399.20 requires the Commission to adopt a standard tariff for electricity purchased from a small renewable “electric generation facility” as defined by § 399.20(b).<sup>3</sup> The Commission must determine the payment paid under the standard tariff, which must be a “market price” that includes “all current and anticipated environmental compliance costs.” When “establish[ing] a methodology to determine the market price of electricity for terms corresponding to the length of contracts,” the Commission is required to consider the following:

- (A) The long-term market price of electricity for fixed price contracts, determined pursuant to an electrical corporation's general procurement activities as authorized by the commission.
- (B) The long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities.
- (C) The value of different electricity products including baseload, peaking, and as-available electricity.<sup>4</sup>

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<sup>2</sup> Id. at 5.

<sup>3</sup> § 399.20(c).

<sup>4</sup> § 399.20(d)(2).

The Commission is permitted to “adjust the payment rate to reflect the value of every kilowatt hour of electricity generated on a time-of-delivery basis.”<sup>5</sup> In implementing the ReMAT program, however, electric utilities must offer the standard tariff and associated standard contract<sup>6</sup> to eligible facilities within their service territories, “upon request, on a first-come-first-served basis” until the electric corporation “meets its proportional share of a statewide cap of 750 megawatts.”<sup>7</sup> In addition, the Commission has authority to establish prices for the ReMAT Program pursuant to the federal Public Utility Regulatory Policies Act (PURPA).<sup>8</sup>

### **1.3. Federal Court Order Enjoining ReMAT As Approved in Commission’s 2012 and 2013 Decisions.**

On December 6, 2017, a federal district court found that the Commission’s ReMAT program did not comply with the Public Utility Regulatory Policies Act of 1978 (“PURPA”)<sup>9</sup> because of the program cap on procurement and because the prices calculated under the ReMAT program are not permissible under PURPA.<sup>10</sup> The *Winding Creek Order* determined that the prices established by ReMAT’s adjusting pricing mechanism do not calculate “avoided costs” under FERC’s regulations,<sup>11</sup> which define “avoided costs” as “the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.” PURPA provides that avoided-cost rates may not exceed the “incremental cost to the electric

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<sup>5</sup> § 399.20(d)(3).

<sup>6</sup> See § 399.20(g).

<sup>7</sup> § 399.20(f)(1).

<sup>8</sup> See D.12-05-035, pp. 10-11, p. 102 n.89 and Conclusions of Law 1 and 2.

<sup>9</sup> PURPA is codified generally at 16 U.S.C. §§ 824a-3 and 2601. The federal regulations implementing PURPA are found at 18 C.F.R. Subchapter K starting at Part 290.

<sup>10</sup> *Winding Creek Solar, LLC v. Peevey*, 293 F.Supp.3d 980, 989-90 (N.D. Cal. 2017) (*Winding Creek Order*), aff’d sub nom. *Winding Creek Solar, LLC v. Carla Peterman, et al.*, 932 F.3d 861 (9th Cir. 2019).

<sup>11</sup> *Id.* at 989, citing 18 C.F.R. § 292.101(b)(6).

utility of alternative electric energy,”<sup>12</sup> which is defined as “the cost to the electric utility of the electric energy which, but for the purchase from [a QF], such utility would generate or purchase from another source.”<sup>13</sup> The court concluded that ReMAT’s adjusting pricing mechanism “strays too far from basing prices on a utility’s but-for cost,” and suggested that the Commission “look to a spot market price or similar indicator for electricity.”<sup>14</sup>

By the *Winding Creek Order*, the federal court accordingly granted an injunction prohibiting the CPUC from continuing to apply the Re-MAT program as set forth in the orders initially establishing the ReMAT program, D.12-05-035, D.13-01-041, and D.13-05-034.<sup>15</sup> In accordance with the federal court injunction, the Commission suspended the ReMAT program on December 15, 2017.<sup>16</sup>

#### **1.4. Commission’s PURPA Standard Offer Contract Rulemaking 18-07-017**

The *Winding Creek Order* found that neither the ReMAT program nor the Commission’s Standard Contract for QFs 20MW or Less<sup>17</sup> provided QFs the option to choose energy rates determined either at the time of contract execution or at the time of product delivery as required by 18 C.F.R. §§ 292.304(d)(2)(i) and (ii).<sup>18</sup> In order to provide QFs with the options required by PURPA’s federal regulations, the Commission adopted a New QF Standard Offer Contract for QFs of 20 MW or less (New QF SOC) in D.20-05-006. The New QF SOC provides QFs a contracting opportunity without any cap on overall megawatts of procurement. The QF SOC does not address the current ReMAT

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<sup>12</sup> 16 U.S.C. § 824a–3(b).

<sup>13</sup> 16 U.S.C. § 824a–3(d).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 994.

<sup>16</sup> The Commission’s suspension was effected by a letter order of the Commission’s Executive Director to Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company.

<sup>17</sup> The Standard Contract for PURPA Qualifying Facilities (QF) 20MW or Less was approved when the Commission adopted the 2010 QF Settlement in D.10-12-035, as modified by D.15-06-028.

<sup>18</sup> *Winding Creek Order* at 989-92.

program's specific pricing calculation violations of PURPA identified in the *Winding Creek Order*.

## **2. Request for Comment**

After the Commission adopted the ReMAT program in D.12-05-035, as modified by D.13-01-041, the electric utilities launched the ReMAT program in October 2013. The Commission has determined that the three large investor-owned utilities regulated by the Commission are responsible for procuring in the aggregate 493.6 MW of electricity under the ReMAT program.<sup>19</sup> By November 2017, the investor-owned utilities had collectively procured 255.7 MW of renewable power under Re-MAT, requiring them to procure an additional 238 MW to meet their portion of the statewide procurement target. The ReMAT program has been suspended since December 2017 as a result of the *Winding Creek Order*. Since then, multiple interested parties have expressed keen interest in participating in the ReMAT program as it had been designed and operating with the adjusting pricing mechanism, bi-monthly program periods, and program period caps.<sup>20</sup> As discussed above, however, a federal district court has found that these aspects of the ReMAT program violate PURPA.

The Commission is mindful of its duties to implement statutory directives, including Pub. Util. Code § 399.20. When the Commission adopted the New QF SOC, it noted that PG&E, SCE, and SDG&E will not need to procure additional Renewables Portfolio Standard (RPS) resources until 2029 at the earliest.<sup>21</sup> That is because "PG&E, SCE, and SDG&E have already signed procurement contracts that satisfy their existing

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<sup>19</sup> D.12-05-035 at 76-77, as conformed by D.13-01-041, based upon the methodology approved in D.07-07-027 (the IOUs' allocated share of the coincident peak demand, or each IOU's allocated share of the total system-statewide peak).

<sup>20</sup> See, e.g., various filings in Rulemaking 18-07-017 in which the New QF SOC was adopted, including Reply Comments of ReMAT Parties on Proposed Decision Adopting New Standard Offer Contract for Qualifying Facilities of 20 Megawatts or Less.

<sup>21</sup> D.20-05-006 at 37-38.

RPS obligations and will satisfy their RPS obligations for many years into the future.”<sup>22</sup> This does not obviate the need for the Commission to fulfill its statutory duty and ensure that the IOUs procure a total of 493.6 MW of electricity from certain types of small renewable resources pursuant to § 399.20. The proposed modification to the ReMAT program is intended to facilitate the IOUs fulfilling of their statutory procurement mandate under § 399.20 and actually procure their proportional share of the statewide 750 MW procurement requirement.

Accordingly, this ruling seeks comment on a Staff Proposal to make modifications to the ReMAT program that would eliminate the adjusting pricing mechanism, the bi-monthly program periods and program period caps, and instead adopt administratively determined prices by product category with a time-of-delivery adjustment. The Staff Proposal additionally proposes that the Commission annually update the prices by resolution to account for the most recent pricing information so that prices reflect market prices. The proposed modifications are attached as Attachment. We wish to re-open the ReMAT program promptly with these changes, with additional modifications to ReMAT as contemplated in the Scoping Memo and Ruling in this rulemaking.

In particular, parties are invited to comment on:

1. The Staff Proposal modifications’ consistency with the requirements of Public Utilities Code § 399.20.
2. The Staff Proposal modifications’ consistency with the *Winding Creek Order*.
3. The Staff Proposal modifications’ consistency with any other requirement of PURPA or state law.

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<sup>22</sup> Id. at 27, citing the CPUC’s *2019 Renewables Portfolio Standard Annual Report*, Table 2 at 6, showing forecasted IOU RPS compliance surpassing 50% by 2026 requirement and forecasted to reach 51% eligible renewable resources by 2021.

**IT IS RULED** that:

1. The parties to this proceeding may file and serve comments on the proposed modifications to the ReMAT program (attached as Attachment) by July 21, 2020. Reply comments may be filed and served by July 28, 2020. We expect to issue a proposed decision for the Commission's consideration after reviewing parties' comments to this ruling.

2. This ruling is being served on the service list of R.18-07-003, R.11-05-005, and R.18-07-017.

Dated June 26, 2020, at San Francisco, California.

/s/ CLIFFORD RECHTSCHAFFEN  
Clifford Rechtschaffen  
Assigned Commissioner

/s/ MANISHA LAKHANPAL  
Manisha Lakhanpal  
Assigned Administrative Law Judge

**ATTACHMENT**  
**STAFF PROPOSAL FOR MODIFICATION TO**  
**THE ReMAT PROGRAM**

Staff proposes that the Commission adopt modifications to the feed-in-tariff program, known as ReMAT, to resume new procurement under the program which was suspended in December 2017. Specifically, the program's pricing is modified to a fixed-price for each product category and the bi-monthly ReMAT program periods are removed. This proposal would also incorporate time-of-delivery (TOD)<sup>1</sup> periods and factors in new ReMAT standard contracts.

**1. Administratively Set Price by Product Category Using Avoided Costs**

Public Utilities (Pub. Util.) Code § 399.20(d)(2) directs the Commission to consider specific factors when establishing a methodology to determine the appropriate avoided cost to be paid for electricity generation by the resources covered by the ReMAT program statute:

*Pub. Util. Code § 399.20(d)(2)(A):* The long-term market price of electricity for fixed price contracts, determined pursuant to an electrical corporation's general procurement activities as authorized by the commission.

*Pub. Util. Code § 399.20(d)(2)(B):* The long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities.

*Pub. Util. Code § 399.20(d)(2)(C):* The value of different electricity products including baseload, peaking, and as-available electricity.

These statutes direct that, in setting the prices under ReMAT, the Commission must consider the IOUs' procurement activities, the costs associated with fixed-price electricity purchased from new generating facilities, and the value of different energy products. The Staff Proposal is consistent with the requirements in § 399.20 to establish a methodology to determine the market price of electricity, considering the long-term market price for fixed price contracts. The weighted average prices for the three energy types determined from RPS contracts in the Staff Proposal represent the but-for cost to the utilities of the power generated by an RPS facility eligible to sell to an IOU under the procurement segmentation required by § 399.20.

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<sup>1</sup> Actual renewable energy payments are based on the contract price multiplied by the IOU Time-of-Day (TOD) factors according to when the RPS facility actually generates electricity. TOD-adjustments effectively allocate higher costs to power supplied during on-peak hours and lower costs to power supplied during the off-peak hours.



Recent purchases by IOUs under the RPS program present the best option at this time as the means of determining avoided cost rates for procurement under Section 399.20. The ReMAT program is a program under the Public Utility Regulatory Policies Act of 1978 (PURPA) because the Commission is setting the rates in accordance with state statute. In general, states have broad discretion and a wide degree of latitude to set avoided-cost rates, as long as such rates conform with the federal regulations implementing PURPA. Recent purchases by IOUs under the RPS program reasonably show the anticipated costs to the utilities of complying with Section 399.20 because they are based on recent actual executed contracts. Moreover, Energy Division can calculate avoided-cost rates for each ReMAT Product Category based on actual data from recent long-term RPS contracts in a manner that meets the avoided-cost rate considerations set out in the federal PURPA regulations.<sup>2</sup> Energy Division’s method can calculate avoided cost rates based on actual recent contracts with baseload or as-available deliverability and peaking and non-peaking profiles. Therefore, Energy Division’s methodology gives due consideration in the federal regulations, such as “the availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods,” “[t]he ability of the utility to dispatch the qualifying facility” and “[t]he expected or demonstrated reliability of the qualifying facility.”<sup>3</sup>

Therefore, it is appropriate to calculate the price for ReMAT procurement based on RPS prices in long-term contracts recently executed by the Commission-regulated IOUs. As allowed by the RPS program rules regarding eligible renewable resources, these recent RPS procurements vary based on technology and size. Given these considerations, it is reasonable to adopt ReMAT prices that are based on the large IOUs’ recent RPS contract prices, which are then categorized by product category and averaged on capacity-weighted basis.

Staff have calculated the average contract price weighted by generator capacity for RPS resources to establish the product category prices (Table 1). The RPS contract data originates from renewable energy contracts executed by the IOUs between 2013 and 2019.<sup>4</sup>

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<sup>2</sup> 18 C.F.R. § 292.304(e).

<sup>3</sup> 18 C.F.R. §§ 292.304(e)(2), (e)(2)(i) and (ii).

<sup>4</sup> Public information of IOU renewable contracts under the RPS program include contract summaries, contract counterparties, resource type, location, delivery point, expected deliveries, capacity, length of contract, and online date. Other terms of renewable contracts are confidential for three years from the date the contract begins deliveries or until one year following expiration, whichever comes first. The public data available in the RPS database is accessible at: [https://www.cpuc.ca.gov/RPS\\_Reports\\_Data/](https://www.cpuc.ca.gov/RPS_Reports_Data/)

**Table 1: Weighted Average RPS Contract Prices Executed 2013-2019<sup>5</sup>**

<b>Product Category</b>	<b>Weighted Average Price (\$/MWh)</b>
As-Available Non-Peaking	\$ 57.54
As-Available Peaking	\$ 50.23
Baseload	\$ 79.72

To establish the product category prices in Table 1, Staff used the following methodologies:

**a. Data Sources and Summary of Data Inputs**

The CPUC approves all new RPS contracts for the IOUs. In addition, the CPUC's Energy Division maintains a database that tracks and collects monthly project and contract data from the IOUs.<sup>6</sup> Through the RPS database Energy Division and the public can track RPS contracts and development status of all renewable energy projects executed by the three large IOUs.<sup>7</sup> For the purposes of establishing a fixed-price for each ReMAT product category that is based on recent market prices, Energy Division has employed the RPS database to determine the RPS contracts executed by the IOUs between 2013 and 2019 to ensure an adequate representation of a range of eligible renewable technologies, project sizes, and dispatchability, reliability, and other factors in 18 C.F.R. 292.304(e) that should be considered when setting avoided cost rates.

Table 2 below provides a summary of the RPS contracts' characteristics used to inform the fixed-prices by product category in this Staff Proposal and Table 3 is a list of the contracts.

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<sup>5</sup> The average RPS contract prices weighted by capacity in Table 1 were generated through IOUs' submissions to the RPS Database (dated April 2020). All contracts included in the weighted average contract price by product category were executed between 2013 and 2019. This average excludes mandated RPS procurement contracts.

<sup>6</sup> D.17-12-007 directs the IOUs to submit contract data on a monthly basis.

<sup>7</sup> The public version of the RPS database and publicly available RPS contracts with commercial online dates through 2015 can be accessed at [https://www.cpuc.ca.gov/RPS\\_Reports\\_Data/](https://www.cpuc.ca.gov/RPS_Reports_Data/).

**Table 2: RPS Contract Data Summary Used to Inform  
ReMAT Product Category Prices**

<i>Representative ReMAT Product Category</i>	<b>Range of RPS Contract Capacity (MW)</b>	<b>Number of Contracts</b>
<i>As-Available Non- Peaking</i>	3-132	12
<i>As-Available Peaking</i>	1-233	54
<i>Baseload</i>	5-225	3
		<b>69</b>

**Table 3: List of IOUs RPS Executed RPS Contracts  
Used to Inform Fixed-Prices by ReMAT Product Category**

<b>IOU</b>	<b>Year of Contract Execution</b>	<b>Project Name</b>	<b>Technology Type</b>	<b>Contract Length (Years)</b>	<b>Contract Capacity (MW)</b>
SCE	2018	Jaton, LLC	Solar PV	20	3.0
SCE	2018	5149 Lancaster Energy LLC	Solar PV	20	3.0
SCE	2018	CED Wistaria Solar, LLC	Solar PV	20	106.7
SDG&E	2018	ORNI33, LLC	Solar PV	20	20.0
SDG&E	2017	Energia Sierra Juarez 2 US LLC	Wind	20	105.0
PG&E	2016	RE Gaskell West 3	Solar PV	15	20.0
PG&E	2016	RE Gaskell West 4	Solar PV	15	20.0
PG&E	2016	RE Gaskell West 5	Solar PV	15	20.0
<b>SCE</b>	2016	Windhub Solar A Solar Project	Solar PV	15	20.0
<b>SCE</b>	2016	American Kings Solar, LLC	Solar PV	15	128.0
<b>PG&amp;E</b>	2015	Summer Wheat (FKA San Joaquin 1A)	Solar PV	20	19.2
<b>SCE</b>	2015	Sonoma County Landfill LFGTE Project	Landfill Gas	10	5.0
<b>SCE</b>	2015	RE Gaskell West 1, LLC	Solar PV	20	20.0

<b>IOU</b>	<b>Year of Contract Execution</b>	<b>Project Name</b>	<b>Technology Type</b>	<b>Contract Length (Years)</b>	<b>Contract Capacity (MW)</b>
<b>SCE</b>	2015	Great Valley Solar 3, LLC (a/k/a RE Tranquillity 8 Azul)	Solar PV	20	20.0
<b>SCE</b>	2015	Maverick Solar, LLC	Solar PV	15	125.0
<b>SCE</b>	2015	SUNRAY SEGS I	Solar PV	20	13.8
<b>SCE</b>	2015	North Rosamond Solar, LLC	Solar PV	15	151.0
<b>SCE</b>	2015	Sun Streams, LLC	Solar PV	15	160.0
<b>SCE</b>	2015	Willow Springs Solar, LLC	Solar PV	15	108.0
<b>SCE</b>	2015	Sunshine Valley Solar, LLC	Solar PV	15	104.0
<b>SCE</b>	2015	RE Garland, LLC	Solar PV	15	187.0
<b>SCE</b>	2015	El Cabo Wind, LLC	Wind	20	298.0
<b>SCE</b>	2015	Voyager Wind I, LLC	Wind	15	132.0
<b>SDG&amp;E</b>	2015	Midway Solar Farm III	Solar PV	20	20.0
<b>PG&amp;E</b>	2014	Portal Ridge Solar C Project	Solar PV	20	11.4
<b>PG&amp;E</b>	2014	CED Oro Loma Solar Project A	Solar PV	20	10.0
<b>PG&amp;E</b>	2014	Sunray 2	Solar PV	20	20.0
<b>PG&amp;E</b>	2014	Avenal Solar Project A	Solar PV	20	7.9
<b>PG&amp;E</b>	2014	CED Oro Loma Solar Project B	Solar PV	20	10.0
<b>PG&amp;E</b>	2014	Avenal Solar Project B	Solar PV	20	7.9
<b>SCE</b>	2014	Geysers Power Company, LLC	Geothermal	10	50.0
<b>SCE</b>	2014	Copper Mountain Solar 4, LLC	Solar PV	20	93.6
<b>SCE</b>	2014	Longboat Solar, LLC	Solar PV	20	20.0
<b>SCE</b>	2014	Algonquin SKIC 10 Solar, LLC	Solar PV	20	10.0
<b>SCE</b>	2014	Portal Ridge Solar B, LLC	Solar PV	20	20.0

<b>IOU</b>	<b>Year of Contract Execution</b>	<b>Project Name</b>	<b>Technology Type</b>	<b>Contract Length (Years)</b>	<b>Contract Capacity (MW)</b>
<b>SCE</b>	2014	Rio Bravo Solar I, LLC	Solar PV	20	20.0
<b>SCE</b>	2014	Rio Bravo Solar II, LLC	Solar PV	20	20.0
<b>SCE</b>	2014	Wildwood Solar II, LLC	Solar PV	20	15.0
<b>SCE</b>	2014	RE Garland A, LLC	Solar PV	20	20.0
<b>SCE</b>	2014	Mesquite Solar 2	Solar PV	20	100.8
<b>SCE</b>	2014	Coram Energy LLC	Wind	10	3.0
<b>SCE</b>	2014	San Gorgonio Westwinds II-Windustries, LLC	Wind	15	9.8
<b>SCE</b>	2014	Tule Wind LLC	Wind	15	132.0
<b>SCE</b>	2014	Cameron Ridge II, LLC	Wind	15	11.9
<b>PG&amp;E</b>	2013	Kekawaka Creek Hydroelectric Facility	Small hydro	20	5.5
<b>PG&amp;E</b>	2013	Woodmere Solar Farm	Solar PV	20	15.0
<b>PG&amp;E</b>	2013	Rising Tree Wind Farm II	Wind	20	19.8
<b>SCE</b>	2013	Geysers Power Company, LLC	Geothermal	10	225.0
<b>SCE</b>	2013	SEPV Palmdale East, LLC	Solar PV	20	10.0
<b>SCE</b>	2013	Pumpjack Solar I, LLC	Solar PV	20	20.0
<b>SCE</b>	2013	Catalina Solar 2, LLC	Solar PV	20	18.0
<b>SCE</b>	2013	Citizen Solar B, LLC	Solar PV	20	5.0
<b>SCE</b>	2013	Wildwood Solar I, LLC	Solar PV	20	20.0
<b>SCE</b>	2013	Adelanto Solar, LLC	Solar PV	20	20.0
<b>SCE</b>	2013	67RK 8ME, LLC	Solar PV	20	16.7
<b>SCE</b>	2013	Lancaster Little Rock C LLC	Solar PV	20	5.0
<b>SCE</b>	2013	Solar Oasis LLC	Solar PV	20	20.0
<b>SCE</b>	2013	SPS Atwell Island West, LLC	Solar PV	20	20.0

<b>IOU</b>	<b>Year of Contract Execution</b>	<b>Project Name</b>	<b>Technology Type</b>	<b>Contract Length (Years)</b>	<b>Contract Capacity (MW)</b>
<b>SCE</b>	2013	SEPV Mojave West, LLC	Solar PV	20	20.0
<b>SCE</b>	2013	Adera Solar	Solar PV	20	20.0
<b>SCE</b>	2013	Imperial Valley Solar 2, LLC (Mount Signal II)	Solar PV	20	153.5
<b>SCE</b>	2013	Imperial Valley Solar 3, LLC (Mount Signal V)	Solar PV	20	252.3
<b>SCE</b>	2013	41MB 8ME LLC	Solar PV	20	51.3
<b>SCE</b>	2013	Panoche Valley Solar, LLC	Solar PV	20	140.0
<b>SCE</b>	2013	Rising Tree Wind Farm, LLC	Wind	20	80.0
<b>SDG&amp;E</b>	2013	Maricopa West Solar PV LLC	Solar PV	15	20.0
<b>SDG&amp;E</b>	2013	Sun Edison Victorville Solar	Solar PV	20	10.0
<b>SDG&amp;E</b>	2013	Oak Creek Wind Power LLC	Wind	10	3.5
<b>SDG&amp;E</b>	2013	San Gorgonio Westwinds II LLC	Wind	10	11.2

**b. Weighted Average Fixed-Prices by Product Category**

Many of the RPS contracts used to inform the weighted average fixed-prices by ReMAT product category remain confidential per confidentiality rules established in D.06-06-066. Therefore, Energy Division staff has aggregated RPS contract price data to ensure protection of the confidentiality of individual contract costs and has established a minimum of three contracts per ReMAT product category to best represent market prices.

The fixed-prices by product category that are adopted in this Staff Proposal (Table 4) for the ReMAT Program are the result of the average RPS contract price by representative ReMAT product category weighted by contract capacity using the data summarized in the previous section, simulating the market price for RPS resources by representative ReMAT product category.

**Table 4: Fixed-Prices by Product Category for IOUs' ReMAT Standard Contracts**

<i>ReMAT Product Category</i>	<b>Weighted Average RPS Contract Price (\$/MWh)</b>
<i>As-Available Non-Peaking</i>	\$57.54
<i>As-Available Peaking</i>	\$50.23
<i>Baseload</i>	\$79.72

## **2. Price Adjustments**

The RPS market has historically changed from year to year and has changed significantly from the start of the RPS program.<sup>8</sup> To ensure that the offered price reflects updated market prices and the IOUs' avoided costs, as required by § 399.20 and PURPA, the ReMAT price should be periodically adjusted. The previous methodology of adjustments of every two months would not work given the new price setting methodology. However, the Commission annually receives RPS contract information and annually reports on RPS costs and expenditures. Thus, to ensure relevant pricing and program efficiencies, the fixed-prices to be offered by product category, as determined by the methodology discussed in the previous section, would be updated annually by Energy Division by draft Resolution beginning May 2021. Energy Division will use the prior seven years of IOU RPS contracts to calculate the updated ReMAT prices for each Product Category, e.g., in May 2021, Energy Division will update the prices based on the IOUs' RPS contracts in the years 2014 through 2020.

It is possible as the annual updates progress that older, publicly available contract data is replaced by recent, confidential contract prices, or that the sample size of executed contracts in any Product Category may become too small to protect confidentiality through weighted averaging. Current Commission rules require that certain contract prices remain confidential for a period of three years after the commencement of commercial operation of the facility. Therefore, in cases where confidential price data of recent contracts could be determined by "calculating out" the public prices from the weighted average, the prices in the Product Category at issue will not change from the prior year, and Energy Division will not update the price in the Product Category in its draft Resolution.

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<sup>8</sup> See, e.g., D.20-05-006 at 32, citing CPUC 2019 RPS Annual Report ("We note that RPS prices have faced a consistent downward trend, falling an average of 11.5 percent per year between 2007 and 2018.").

### **3. Elimination of Program Periods and Period Caps**

D.12-05-035 ordered the IOUs to make ReMAT contracts available during two-month program periods that allocate program megawatts, by product category. When adopted, these bi-monthly program periods and period caps were intended as an opportunity to gauge interest and adjust ReMAT prices by product category to reflect the current market price for renewable generation, and allow for price adjustments triggered by subsequent program periods.

Staff proposes that the Commission eliminate the bi-monthly program periods and program period procurement caps adopted in D.12-05-035, and instead adopt fixed-prices by product category, until each the IOUs reached their allocated share of the 750 MW statewide procurement mandate. This eliminates the need to hold bi-monthly program periods and period caps.

### **4. Program Queues**

D.12-05-035 also adopted program queues to implement *Pub. Util. Code § 399.20(f)* which directs the feed-in-tariff to be available on a first-come-first served basis. Changing the ReMAT Program to eliminate Program Period and Period Caps is not inconsistent with this statutory provision. Staff therefore proposes that IOUs retain the existing queue methodology.

### **5. Part 2: Changes to the ReMAT Standard Contract**

The Commission's D.13-05-034 adopted a Joint Standard Contract for the ReMAT program. If the Commission adopts changes to the ReMAT program as a result of this Staff Proposal, then minimal changes are necessary for the Joint Standard Contract to implement the modifications.

The ReMAT program statute *Pub. Util. Code § 399.20(d)(3)* allows the Commission to “adjust the payment rate to reflect the value of every kilowatthour of electricity generated on a time-of-delivery basis.” As stated in D.12-05-035, which implemented *Pub. Util. Code § 399.20(d)(3)* and directed that ReMAT sellers be paid TOD-adjusted prices, the benefit in adjusting the energy price for TOD factors captures the value of the product to ratepayers.

The modified ReMAT standard contracts should continue the prior practice of including TOD periods and payment allocation factors. However, it has been a while since the IOUs updated their ReMAT contract's respective TOD periods and factors due to the program suspension. Further, each year in the annual RPS Procurement Plan process, the IOUs may each propose new TOD periods and factors, which are reviewed and approved



via Commission Decision. Thus, Staff proposes that, as part of the ReMAT modification proposed here, the IOUs each be directed to update the new ReMAT standard contracts to reflect its most recently Commission-approved TOD periods and payment allocation factors.<sup>9</sup>

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<sup>9</sup> See D.19-02-007, Section 11.4 for further discussion on recent modifications to IOUs' TOD factors.