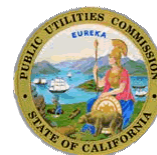


**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

10/11/21
04:59 PM

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

Rulemaking 18-07-003
(Filed July 12, 2018)

**WESTERN POWER TRADING FORUM
REPLY COMMENTS ON PROPOSED AND ALTERNATE PROPOSED DECISIONS
REGARDING CONFIDENTIALITY RULES**

Gregory S. G. Klatt
DOUGLASS, LIDDELL & KLATT
411 E. Huntington Dr., Ste. 107
Arcadia, CA 91006
Telephone: (626) 802-5733
Email: klatt@energyattorney.com

Attorney for
WESTERN POWER TRADING FORUM

October 11, 2021

**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.

Rulemaking 18-07-003
(Filed July 12, 2018)

**WESTERN POWER TRADING FORUM
REPLY COMMENTS ON PROPOSED AND ALTERNATE PROPOSED DECISIONS
REGARDING CONFIDENTIALITY RULES**

In accordance with Rule 14.3(d), the Western Power Trading Forum (“WPTF”) hereby submits these reply comments on the Proposed Decision (“PD”) and Alternate Proposed Decision (“APD”) issued in the above-captioned proceeding on September 16, 2021.

The PD and APD modify the confidentiality rules for Renewables Portfolio Standard (“RPS”) procurement data and contract information, first adopted in Decision (D.) 06-06-066, to provide for the public disclosure of more information, on a much earlier basis, than under the current rules. WPTF shares the concerns about unintended and undesirable effects of the proposed rules change expressed by load serving entities (“LSEs”) and the resource developers and wholesale suppliers from whom they procure renewable energy and RPS compliance products. WPTF agrees with the Independent Energy Producers Association (“IEP”) that one of the Commission’s key considerations should be “how long it takes price and term information to become stale,” and that, if any changes to the current rules are adopted, the modified rules should ensure that RPS procurement data and contract information is not made public until it is “no longer relevant to bidding or markets.”¹ As the California Energy Storage Alliance (“CESA”) correctly

¹ IEP at 3. (All citations herein are to the identified party’s opening comments on the PD and APD.)

observes, premature disclosure of suppliers' bids and other commercially-sensitive information could dampen participation in California's RPS market.² Moreover, as the investor-owned utilities (IOUs) and electric service providers ("ESPs") point out, LSEs and their customers could suffer material harm, in the form of higher overall prices, from the premature disclosure of the prices and other commercially sensitive terms of their negotiated RPS contracts.³ Most importantly, neither the PD nor the APD make a plausible case that the drastic rule changes they propose are needed to fulfil the Commission's statutory duties or are otherwise in the public interest.⁴

For all these reasons, WPTF urges the Commission to reject both the PD and APD, thereby preserving the confidentiality protections afforded to LSEs and their suppliers under the current rules pending a more rigorous examination of the commercial implications of any proposed rule changes. If, however, the Commission is determined to forge ahead with the proposals at hand, WPTF urges the Commission to adopt the PD with these modifications:

- Preserve the existing "one year back" confidentiality protections for LSE retail sales and RPS procurement data that would reveal an LSE's RPS net short position.⁵
- Limit application of requirements for the public disclosure of RPS contracts to LSE contracts with RPS-eligible resources that are still under development at the time of contract execution.⁶ In addition, limit the disclosure requirement to summaries of

² CESA at 2.

³ Joint Utilities at 2; Alliance for Retail Energy Markets ("AReM") at 2-3.

⁴ Joint Utilities at 2; AReM at 2-3; CESA at 2-3; Shell Energy North America ("Shell") at 3.

⁵ AReM at 7-8; Shell at 4.

⁶ AReM at 6-7.

contract terms that are relevant to RPS compliance and the state of the RPS market (i.e., do not require the disclosure of the full contracts).⁷

- Eliminate the “whichever comes first” requirement for the public disclosure of contracts for new RPS-eligible resources, such that the contracts will not be made public until 30 days after the contracted resources achieve commercial operation (rather than making disclosure mandatory after three years from the contract execution date).⁸
- Provide that price information for LSE contracts for the purchase of RPS products from existing resources will not be made public until six months after the contract execution date.
- Eliminate any requirements for public disclosure of prices and other data from unsuccessful bids in response to IOU solicitations (or any other LSEs’ solicitations) for new RPS-eligible resources.⁹
- Given the unique and intensely competitive commercial environment in which ESPs operate, preserve the aggregation requirement that preconditions the public disclosure of price data derived from ESP contracts for the purchase or sale of RPS products sourced from RPS-eligible resources that are already in commercial operation.¹⁰
- Clarify that bids submitted by LSEs in response to utility solicitations to sell RPS products will not be made public.¹¹

⁷ CESA at Shell at 2.

⁸ CESA at 3-5.

⁹ CESA at 6-7; IEP at 5-7.

¹⁰ AReM at 6-7.

¹¹ AReM at 8.

While WPTF does not believe the current record supports making any changes to the current confidentiality rules, the competitive harm that would otherwise result from the proposed changes to the RPS confidentiality rules set forth in the PD would be mitigated with the modifications described above. WPTF appreciates the Commission's consideration of its recommendations.

Respectfully submitted,



Gregory S. G. Klatt
DOUGLASS, LIDDELL & KLATT

Attorney for
WESTERN POWER TRADING FORUM

October 11, 2021