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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue
Implementation and Administration of California
Renewables Portfolio Standard Program.

Rulemaking 08-08-009
(Filed August 21, 2008)

**ADMINISTRATIVE LAW JUDGE'S RULING SETTING SCHEDULE FOR
BRIEFS ON IMPLEMENTATION OF SENATE BILL 32**

Background

Pursuant to state law and Commission orders, each California electrical corporation has a tariff for the purchase of electricity from certain eligible facilities.¹ The purchases are from water, wastewater and other customers of electrical corporations, up to 1.5 megawatts (MW) per transaction and a statewide total of 497 MW. Most tariffs also incorporate a standard contract.

Senate Bill (SB) 380 amended § 399.20, effective January 1, 2009. SB 32 further amended the law, effective January 1, 2010.² Implementing these statutory changes raises a number of questions on which the parties' views would aid the Commission.

¹ See Pub. Util. Code § 399.20 (Assembly Bill (AB) 1969, Stats. 2006, ch. 731) and Commission Decision (D.) 07-07-027, D.08-02-010 and D.08-09-033. Unless otherwise specified, all further references to sections are to the Public Utilities Code.

² SB 380 (Stats. 2008, ch. 544) amended § 399.20. SB 32 (Stats. 2009, ch 328) amended § 399.20 and added § 387.6.

Briefs

Content of briefs

Respondents must, and other parties may, file and serve briefs that address the following issues arising from the statutory changes made by SB 380 and SB 32, prior Commission decisions, and rulings of the Federal Energy Regulatory Commission (FERC). Parties should make specific recommendations, and support their recommendations by arguments directly related to the recommendation. If a party believes that two or more of the issues set forth below should be considered together, the party should identify the issues and provide reasons for such treatment. If a party chooses not to address a particular issue listed below, that should be specifically indicated. Parties may also discuss any other issues not listed below that they believe are relevant to the Commission's implementation of SB 32.

1. Customers and eligibility

- Elimination of separate tariffs for (a) water/wastewater and (b) other customers;
- Elimination of "retail customer" requirement; and
- Tariff language regarding eligible facility requirements.³

³ Section 399.20(b) provides:

As used in this section, 'electric generation facility' means an electric generation facility located within the service territory of, and developed to sell electricity to, an electrical corporation.

2. Increase in size of eligible facility to three MW⁴ :
 - Commission's discretion to reduce three MW capacity limit to maintain system reliability.⁵
3. Utility reporting requirements.⁶
4. Adjustment of program cap and allocation to 750 MW.⁷
 - Identification of basis for determining statewide electrical capacity and utilities' shares. A list of investor-owned utilities and publicly owned utilities is attached as Attachment A.

⁴ An eligible facility "has an effective capacity of not more than three megawatts." (§ 399.20(b)(1).)

⁵ Section 399.20(j)(2) provides:

The commission may reduce the three megawatt capacity limitation of paragraph (1) of subdivision (b) if the commission finds that a reduced capacity limitation is necessary to maintain system reliability within that electrical corporation's service territory.

⁶ Section 399.20(m) provides:

Within 10 days of receipt of a request for a tariff pursuant to this section from an owner or operator of an electric generation facility, the electrical corporation that receives the request shall post a copy of the request on its Internet Web site. The information posted on the Internet Web site shall include the name of the city in which the facility is located, but information that is proprietary and confidential, including, but not limited to, address information beyond the name of the city in which the facility is located, shall be redacted.

⁷ Section 399.20(f) provides:

An electrical corporation shall make the tariff available to the owner or operator of an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the electrical corporation meets its proportionate share of a statewide cap of 750 megawatts cumulative rated generation capacity served under this section and Section 387.6. The proportionate share shall be calculated based on the ratio of the electrical corporation's peak demand compared to the total statewide peak demand.

5. Yearly inspection and maintenance report.⁸
6. New contract provisions.⁹
7. Utility discretion to deny tariff, subject to appeal to the Commission.¹⁰

⁸ Section 399.20(p) provides:

In order to ensure the safety and reliability of electric generation facilities, the owner of an electric generation facility receiving a tariff pursuant to this section shall provide an inspection and maintenance report to the electrical corporation at least once every other year. The inspection and maintenance report shall be prepared at the owner's or operator's expense by a California licensed contractor who is not the owner or operator of the electric generation facility. A California licensed electrician shall perform the inspection of the electrical portion of the generation facility.

⁹ Section 399.20(q) provides:

The contract between the electric generation facility receiving the tariff and the electrical corporation shall contain provisions that ensure that construction of the electric generating facility complies with all applicable state and local laws and building standards, and utility interconnection requirements.

¹⁰ Sections 399.20(p) and (o) provide:

An electrical corporation may deny a tariff request pursuant to this section if the electrical corporation makes any of the following findings:

- (1) The electric generation facility does not meet the requirements of this section.
- (2) The transmission or distribution grid that would serve as the point of interconnection is inadequate.
- (3) The electric generation facility does not meet all applicable state and local laws and building standards, and utility interconnection requirements.
- (4) The aggregate of all electric generating facilities on a distribution circuit would adversely impact utility operation and load restoration efforts of the distribution system.

Upon receiving a notice of denial from an electrical corporation, the owner or operator of the electric generation facility denied a tariff

Footnote continued on next page

8. Contract termination provisions.¹¹
9. Performance standards to be established by the Commission.¹²
10. Commission discretion to make adjustments for small utilities.¹³
11. Setting the tariff price
 - Price calculation¹⁴

pursuant to this section shall have the right to appeal that decision to the commission.

¹¹ Section 399.20(l) provides:

An owner or operator of an electric generation facility electing to receive service under a tariff or contract approved by the commission shall continue to receive service under the tariff or contract until either of the following occurs:

- (1) The owner or operator of an electric generation facility no longer meets the eligibility requirements for receiving service pursuant to the tariff or contract.

The period of service established by the commission pursuant to subdivision (d) is completed.

¹² Section 399.20(j)(1) provides:

The commission shall establish performance standards for any electric generation facility that has a capacity greater than one megawatt to ensure that those facilities are constructed, operated, and maintained to generate the expected annual net production of electricity and do not impact system reliability.

¹³ Section 399.20(c) provides:

Every electrical corporation shall file with the commission a standard tariff for electricity purchased from an electric generation facility. The commission may modify or adjust the requirements of this section for any electrical corporation with less than 100,000 service connections, as individual circumstances merit.

¹⁴ Section 399.20(d)(1) provides:

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- Customer indifference¹⁵
 - Relevance, if any, of FERC Order Granting Clarification and Dismissing Rehearing, 133 FERC ¶ 61,059 (October 21, 2010) and FERC Order Denying Rehearing, 134 FERC ¶ 61,044 (January 20, 2011), to setting the tariff price.
12. Expedited interconnection procedures.¹⁶
 13. Commission consideration of locational benefits.¹⁷

The tariff shall provide for payment for every kilowatthour of electricity purchased from an electric generation facility for a period of 10, 15, or 20 years, as authorized by the commission. The payment shall be the market price determined by the commission pursuant to Section 399.15 and shall include all current and anticipated environmental compliance costs, including, but not limited to, mitigation of emissions of greenhouse gases and air pollution offsets associated with the operation of new generating facilities in the local air pollution control or air quality management district where the electric generation facility is located.

¹⁵ Section 399.20(d)(3) provides:

The commission shall ensure, with respect to rates and charges, that ratepayers that do not receive service pursuant to the tariff are indifferent to whether a ratepayer with an electric generation facility receives service pursuant to the tariff.

¹⁶ Section 399.20(e) provides:

An electrical corporation shall provide expedited interconnection procedures to an electric generation facility located on a distribution circuit that generates electricity at a time and in a manner so as to offset the peak demand on the distribution circuit, if the electrical corporation determines that the electric generation facility will not adversely affect the distribution grid.

¹⁷ Section 399.20(e) provides:

The commission shall consider and may establish a value for an electric generation facility located on a distribution circuit that generates electricity at a time and in a manner so as to offset the peak demand on the distribution circuit.

14. Refunds of incentives pursuant to the California Solar Initiative and the Self-Generation Incentive Program.¹⁸

Proposed workshops, hearings or other activities

If a party believes that further activities, such as a workshop or evidentiary hearing, are necessary, the party should state, in a separate section in its brief:

1. On which specific issue or issues the further activity is warranted;
2. What activity should be undertaken (e.g., workshop);
3. Specific reasons that the activity would be necessary or beneficial;
4. A proposed time frame for the activity (e.g., evidentiary hearing in August 2011).

¹⁸ Section 399.20(k) provides:

(1) Any owner or operator of an electric generation facility that received ratepayer-funded incentives in accordance with Section 379.6, or with Section 25782 of the Public Resources Code, and participated in a net metering program pursuant to Sections 2827, 2827.9, and 2827.10 prior to January 1, 2010, shall be eligible for a tariff or standard contract filed by an electrical corporation pursuant to this section.

(2) In establishing the tariffs or standard contracts pursuant to this section, the commission shall consider ratepayer-funded incentive payments previously received by the generation facility pursuant to Section 379.6 or Section 25782 of the Public Resources Code. The commission shall require reimbursement of any funds received from these incentive programs to an electric generation facility, in order for that facility to be eligible for a tariff or standard contract filed by an electrical corporation pursuant to this section, unless the commission determines ratepayers have received sufficient value from the incentives provided to the facility based on how long the project has been in operation and the amount of renewable electricity previously generated by the facility.

(3) A customer that receives service under a tariff or contract approved by the commission pursuant to this section is not eligible to participate in any net metering program.

Next steps

The next steps in implementing SB 32 will be identified after review of the briefs, including any suggestions for workshops or hearings.

IT IS RULED that:

1. Briefs of not more than 50 pages, addressing the issues identified in this ruling, must be filed by respondents and may be filed by other parties.
2. Briefs must be filed and served not later than March 4, 2011.
3. Reply briefs, if any, may not exceed 25 pages and must be filed and served not later than March 22, 2011.

Dated January 27, 2011, at San Francisco, California.

/s/ ANNE E. SIMON
Anne E. Simon
Administrative Law Judge

ATTACHMENT A

Investor Owned Utilities (IOUs)

Southern California Edison Company
Pacific Gas and Electric Company
San Diego Gas & Electric Company
PacifiCorp
Sierra Pacific Power
Bear Valley Electric Service
Mountain Utilities

Publicly Owned Utilities (POUs)

Los Angeles Department of Water and Power
Sacramento Municipal Utility District
California Department of Water Resources
Imperial Irrigation District
Modesto Irrigation District
Anaheim, City of
Riverside, City of
Turlock Irrigation District
Northern California Power Authority
Silicon Valley Power
Roseville Electric
Glendale Water and Power
Pasadena Water and Power
Burbank Water and Power
Redding Electric Utility
Vernon, City of
San Francisco, City and County of
Power and Water Resources Pooling Authority
Colton Electric Utility Department
Merced Irrigation District
Azusa Light and Water
Banning, City of
Shasta Lake, City of
Truckee Donner Public Utility District
Lassen Municipal Utility District
Surprise Valley Electric Cooperation

Needles, City of
Trinity Public Utility District
Moreno Valley Electric Utility
Corona, City of
Eastside Power Authority
Anza Electrical Cooperative
Rancho Cucamonga Municipal Utility District
Cerritos, City of
City of Industry
Pittsburg, City of
Victorville, City of
Valley Electric Association
Port of Stockton
Hercules Municipal Utility District
Shelter Cove Resort Improvement District

(END OF ATTACHMENT A)

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated January 27, 2011, at San Francisco, California.

/s/ LILLIAN LI

Lillian Li

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.