

Comments on Proposed 50% RPS Ballot Initiative

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The proposed ballot initiative would establish new goals for California's Renewables Portfolio Standard (RPS) of 40% renewables by 2020 and 50% renewables by 2025. The current statutory goal is 20% by 2010; state policymakers have been studying seriously a further RPS goal of 33% renewables by 2020. Thus, the proposed initiative appears intended to accelerate the RPS program toward goals significantly more ambitious than those that the state has been considering.

These comments focus on the impact of the proposed initiative on the structure of the RPS program. I believe that the proposed statutory changes would have a significant adverse impact on the structure of the RPS program, on the mix of renewable resources developed in the state, and on the cost of the RPS program for electric consumers.

Current RPS Structure. The IOUs conduct annual RPS solicitations, in which renewable generators compete. Each IOU selects winning bidders on a "least-cost, best-fit" basis. The contract between the IOU and a winning bidder is reviewed and approved by the CPUC. Ratepayers pay 100% of bid prices so long as the bid price is below the CPUC-approved market price referent (MPR); there is a limited pool of funds for payments above the MPR for RPS projects whose bid prices exceed the MPR and whose contracts receive CPUC approval. Under this structure, most RPS contracts appear to be priced at a discount to the MPR (how much of a discount is confidential). The IOUs have contracted with a broad range of renewable technologies, which indicates that the IOUs do consider the "fit" of each project to their portfolio, as well as the project's overall cost. For example, although wind is considered to be the least-cost renewable technology, the IOUs have signed a number of large contracts for solar technologies that are more costly than wind but that produce peak period power that is a much better "fit" to the IOUs' present needs.

RPS Structure Under the Proposed Initiative. The proposed initiative makes the following fundamental changes in the structure of the RPS program:

- **The IOUs would be required to sign a contract with any renewable generator that offers a price at or below the MPR.** There should be no question that the proposed Section 399.15(b)(4) is a "must take" requirement that the utilities purchase any renewable power offered to them at or below the MPR price, for a quantity up to their annual procurement target:

(4) A retail seller is required to accept all bilateral offers for electricity generated by eligible renewable energy resources that are less than or equal to the market prices established pursuant to subdivision (c) [the MPR price], except that a retail seller is not obligated to accept a bilateral offer for any year in which the retail seller has procured sufficient renewable energy resources to meet its annual target established pursuant to this subdivision. (emphasis added)

- **The cap on the price paid to eligible renewables would be changed from a cumulative dollar amount in above-MPR payments to a limit of 110% of the MPR for each contract.** New Section 399.15(d) would provide that utilities and other retail sellers are not required to contract with renewable generators at prices greater than 110% of the MPR. The retail seller would be allowed to procure less than its annual procurement obligation if enough renewables cannot be procured at 110% of the MPR or less.
- **The MPR would include “the value and benefits of renewable resources, including but not limited to hedging value and carbon emission reductions.”** The current statute allows the MPR to reflect “hedging value and carbon emission reductions,” although the currently-approved MPR calculation undervalues both of these benefits. Renewables certainly can be viewed as providing additional benefits (fossil fuel price reductions, national security benefits, job creation, and local economic stimulus), although these benefits are much harder to quantify than hedging value and carbon emission reductions. We expect that the initiative could result in a somewhat higher MPR than is possible today.
- **The proposed initiative removes the existing Section 399.15(d)(4) – a section that we understand was just added this year in SB 1036 – that authorizes the utilities voluntarily to exceed the RPS cost cap, subject to CPUC approval of such contracts.** This authority represented important encouragement for the utilities to negotiate innovative “non-standard” contracts that could have pricing significantly in excess of the MPR, but that are important to push the commercialization of new technologies. It also provided a possible alternative means for above-MPR RPS contracts in the event that PGC funds for above-MPR RPS payments were fully committed.
- **Given the new, higher RPS goals, the annual procurement target (APT) is raised from 1% to 2% of annual sales per year.**
- **The c/kWh penalty for failure to meet RPS targets is reduced from 5 c/kWh to 1 c/kWh, although the penalty is no longer capped at \$25 million per year.** The proposed initiative also codifies a set of excuses that would allow the utilities to avoid penalties (new Section 399.14[j]).

Consequences of the Changes to the Structure of the RPS Program. We believe that the proposed changes to the structure of the RPS program would have the following adverse impacts on the mix and cost of renewables that the IOUs procure:

- **Loss of all below-MPR renewables.** Most important, there would no longer be significant competition among renewables whose costs are below the MPR. Given the “must take” requirement of the new Section 399.15(b)(4), no seller of renewable generation would have an incentive to offer power at less than the MPR, unless the quantity of renewable generation available below the MPR price significantly exceeds the new, higher 2% annual procurement target. Given recent experience with strong worldwide demand for renewables, we doubt that the annual supply of below-MPR renewables will exceed the 2% APT. As a result, California ratepayers will lose the competitive benefits of renewable generation that is priced below the MPR. We know that most of the RPS generation procured to date has been priced below the MPR; although the exact magnitude of the discounts is confidential, we believe that in aggregate these below-MPR price benefits are substantial. This problem would be exacerbated if the MPR under the initiative is higher than the present MPR.
- **Short-term incentive for contract failure.** Passage of the initiative could complicate short-term efforts to meet the current RPS goal of 20% by 2010. If the “must-take” requirement at the MPR becomes law, a developer that holds a contract that is signed and approved, but below the MPR contract, would have a strong incentive to have that contract fail, so that it could “put” the same project to the utility on a must-take basis at the current MPR price. Such an incentive could endanger efforts to meet the 2010 goal and result in significantly higher costs for ratepayers.
- **Greatly reduced scope for “least-cost, best-fit” procurement, resulting in higher integration costs.** Today, all RPS generation is subject to a “least-cost, best-fit” (LCBF) procurement process. In effect, the LCBF process allows the utilities to segment the renewable market, and to offer higher prices to renewables (such as solar) whose generation is a better fit to the utilities’ resource needs. The utilities’ current needs are focused on reliable, peak period generation. Thus, the last several RPS solicitations have seen the utilities purchasing a mix of below-MPR wind generation and new solar thermal power at prices at or above the MPR. The proposed initiative would greatly reduce the scope of the utilities’ ability to buy renewables on a LCBF basis, due to the “must-take” requirement for all renewable generation priced at or below the MPR. In essence, the LCBF process would continue to apply only to renewables priced between 100% and 110% of the MPR.

As a result, the initiative is likely to result in a scenario in which the utilities are forced to purchase all renewable generation that is available at the MPR, regardless of whether that generation fits the utilities’ resource needs. If the initiative becomes law, one can easily imagine that very large amounts of off- and

mid-peak wind generation could be “put” to the utilities, at the expense of more expensive solar generation that is a better fit to the utilities’ needs. The result could be a significant increase in the costs to integrate that wind generation into the California grid. The CEC’s Intermittency Analysis Project (IAP) study, released last summer, showed that a 33% RPS goal is technically feasible with modest integration costs, so long as there is a reasonable balance between the amounts of wind and solar that are procured. Wind and solar are highly complementary – solar ramps up in the morning when wind is decreasing, and the opposite occurs in the evening. The CAISO’s integration study, released this fall, examined only the impacts of significant new wind generation, without significant new solar, and concluded that integration costs for wind alone would be far higher than those estimated by IAP.

- **Reduced flexibility to encourage innovative new technologies.** We have seen that at least one utility in the state – PG&E – is willing to sign small RPS contracts with companies trying to commercialize new renewable technologies. PG&E has small RPS contracts for a few megawatts each with Green Volts (concentrating PV) and Finavera (wave energy). We do not know the pricing in these contracts, but would expect them to be more than 10% above the MPR. The utilities have the flexibility to sign such contracts so long as they have available PGC funds and can justify to the CPUC the technology-forcing benefits of these quasi-demonstration projects. The current RPS program encourages and has the flexibility to allow the utilities to pursue such small-scale, cutting-edge projects. In contrast, the proposed initiative would limit the utilities to paying prices no higher than 110% of the MPR, and removes from current law Section 399.15(d)(4) authorizing the utilities voluntarily to exceed the RPS cost cap, if they can justify such contracts to the CPUC.
- **Increased incentives to sign large contracts with speculative projects.** I concur with NRDC that the proposed initiative would exacerbate the existing problem of the utilities signing large RPS contracts with speculative projects, simply in order to show progress toward RPS goals and to provide cover in the increasingly-likely event that the 2010 RPS goal is not reached. The initiative will exacerbate these problems by placing into statute contract failure as an acceptable excuse for failing to meet RPS goals (new Section 399.14[j][1 and 2]), and by constraining RPS prices to 110% of the MPR (which will drive new technologies to larger projects in order to realize economies of scale). I strongly believe that the CPUC needs maximum flexibility in crafting incentives and/or penalties for the utilities to meet RPS goals; it would be a major step back for this initiative to codify a relatively weak set of penalties that can only be changed by a two-thirds vote of the Legislature.