



## California Wind Energy Association

January 5, 2007

**To: Susannah Churchill**  
**Energy Division, CPUC**

**Fr: Nancy Rader**  
**California Wind Energy Association**

**Re: CalWEA Comments on RPS Transparency**

In this memo, we provide comments that echo and elaborate upon the oral comments that Tom Beach and I made for CalWEA at the December 15 Workshop on RPS Transparency. We comment on the staff draft Written LCBF Report Template (which the utilities will file with the Commission), the staff draft Independent Evaluator Report Template (which the IEs will file with the Commission), and confidentiality issues.

We begin by providing a few comments on the utilities' LCBF methodologies. CalWEA appreciates the opportunity to review the IOUs' LCBF methodologies in some detail. We encourage the CPUC to ensure that such workshops occur regularly.

### **I. General Comments on the LCBF Methodologies**

- A. It was unclear from the discussion how the IOUs weight the various criteria used in the LCBF ranking. Some criteria are more important than others; in terms of LCBF, market value and portfolio fit would seem to be more important than credit/finance, project status, or technology/experience. CalWEA understands that the IOUs "err on the side of inclusion" in assembling their short lists; nevertheless, it is important for bidders to understand at what point a higher ranking in qualitative factors (credit/finance, project status, technology/experience, or RPS goals) can overcome a lower ranking in more quantitative criteria such as market value or portfolio fit.
- B. CalWEA is concerned that the IOUs may place undue emphasis, in the bid evaluation process, on credit deposits. Credit is not one of the qualitative issues listed by the Commission in its LCBF order, D. 04-07-029 (at pages 28-29). The primary ratepayer interest in the creditworthiness of RPS suppliers is ensuring that projects committed under contracts are actually completed and that completed projects continue to supply power under contracts that in the future may be below-market -- in other words, in circumstances in which renewable generation has a high market value.

As to the former, CalWEA believes that the track record of the developer is a much better indicator of whether a project committed under a contract will ultimately get built than some arbitrary project development security posted with the utility (generally \$20 per kW). Just as CalWEA supports a modest bid deposit upon a developer making a short list in order to ensure that the developer is serious about its project, however, CalWEA would not oppose a modest project development security requirement upon PPA execution. This amount should be just enough to ensure that the developer does not sign contracts that it knows it cannot perform or simply walk away from contracts that it no longer prefers. \$20 per kW is excessive in this respect. As the bid deposit required by the utilities upon a developer being short listed (\$3 per kW) seems to be working, CalWEA believes that a modest step increase of this (from \$3 to \$5 per kW) upon PPA execution would also be sufficient. (This would amount to a \$500,000 deposit for a 100-MW project.)

As to the security deposit required when a project is already operational to ensure that the developer continues to perform at times when its contract price is below the market price (when its contract price is above the market price, the ratepayer may actually prefer the developer to default), CalWEA believes that the concern here is dramatically overstated by the utilities. Such circumstances are unlikely to result in widespread financial problems for renewable developers. In fact, if a developer intentionally breaches a contract to obtain the higher market price, its credit should be more than adequate to support any damages that the utility might seek. Again, the track record of the developer, and its technology, should be a much better indicator of whether the project will continue to operate throughout the contract term than an arbitrary performance assurance amount posted with the utility.

For these reasons, we believe that the utilities should not penalize non-conforming bids which propose to post at least \$5 per kW upon PPA execution and no post-operation security deposit. In any case, however, bidders and the public should know whether and how such a non-conforming bid will be penalized.

- C. SCE uses a non-zero set of integration costs based on a 2006 consultant report to the CEC, while PG&E and SDG&E continue to use a zero value for integration costs, citing D. 04-07-029. That order found (pp. 12-14) that existing renewables do not impose ancillary service costs on the system at this time, and that “reasonable amounts” of new renewables will result in “negligible” additional ancillary service costs. The Commission did indicate that it would consider changes to these findings “in the future,” as more renewables come on-line and further integration studies are conducted. The Commission has not made such changes to date; thus, CalWEA believes that it is not appropriate for SCE to use a set of integration costs from a consultant’s report to the CEC that the CPUC has not reviewed or approved. For the time being, SCE also should use a zero value for integration costs as do PG&E and SDG&E, as D.04-07-029 requires.<sup>1</sup>
- D. If the IOUs themselves are bidders, the anonymity of bids in the LCBF process is essential, and the independent evaluator must be present at all short-list “negotiations” concerning the

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<sup>1</sup> CalWEA has repeatedly urged the Energy Commission to evaluate the integration costs and capacity values of significant additional quantities of renewable energy. We are hopeful that this analysis will finally be conducted in 2007.

utility's bid(s). Far more preferable from CalWEA's perspective would be making public the utility bid as a resource that other bidders could seek to defer.

- E. CalWEA strongly supports public release of aggregated bid information, as presented on page 2 of Draft Appendix A of the advice letter template, and the relative RPS supply curve (without absolute prices). The aggregated bid data provides important information to all interested parties (regulators, the IOUs, and developers) on the pace of market development, on whether the program is encouraging or discouraging bids, and on the renewable technologies where there may be opportunities for new market entry. The shape of the relative supply curve indicates to all parties whether RPS development is constrained by high prices for renewable technologies (if the supply curve is steep) or by regulatory/contracting barriers (if the supply curve is flat but the number of projects that are receiving contracts is inadequate). This curve would not show absolute prices and would not indicate which projects on the curve received contracts, and thus would not provide bidders with information that could be used to game bids. CalWEA believes that this information will help all interested parties to work together to remove constraints to optimal amounts of renewable development in the state, and to inform future policy discussions.

## **II. Comments on Proposed Templates for LCBF Written Report & Independent Evaluator Written Report**

### **A. Valuation of Non-Conforming Contract Terms**

To promote transparency and fairness in the bidding process, the Commission must ensure that bids are being compared and evaluated, as much as possible, on an "apples to apples" basis. Contract terms, especially credit and performance requirements, will directly and significantly affect contract prices. For example, if two bidders offer the same baseload product at the same price, but one (Bidder A) is held to a much higher performance requirement than the other (Bidder B), then Bidder A is offering a more valuable product than Bidder B and should win the bid. On the other hand, CalWEA believes that posting higher post-construction credit does not bring with it significant ratepayer value. CalWEA therefore proposes the following addition to the Energy Division's proposed standard template for the IOUs' LCBF Written Reports and for the IE Report template:

**LCBF Written Report Template** - Add to section II.A.1.a (on market valuation) a new item as follows:

- identify the terms that deviated from those in the utility RFO, and the price adder or subtractor, stated in dollars per MWh or dollars per MW (as applicable) associated with each material deviation.

**IE Report Template** – Replace question C.3 ("Did the IOU fairly identify nonconforming bids – fair both to the nonconforming bidders and to other conforming bidders?") with the following:

- did the utility identify, for each bid, the terms that deviate from those in the utility RFO, and were the quantitative assessments of the value (or cost) of those deviations reasonable?

## B. Bidder Feedback

The LCBF Report template should provide for details on how the IOUs have sought feedback from bidders (both successful and unsuccessful) after a solicitation was complete. This will provide the opportunity for “lessons learned” to improve future solicitations. The Independent Evaluator reports should also include a section on bidder feedback and any recommendations for improving the bidding/bid evaluation process.

## C. Overall Assessment of the Success of the Bidding Round

The LCBF Template should include a section on the overall success of the bidding round, including a discussion of why the rejected bids were rejected and the strengths and benefits of the successful bids.

## III. Comments on Confidentiality

In order to provide fairness, credibility and verifiability to the RPS program, confidentiality protections with respect to contract terms and conditions should be kept to a minimum. Confidentiality should apply only to the contract price, the identity of the counterparty, and information that could be used to identify a given renewable project owner (e.g., its name, address, delivery point). All other terms and conditions, including any negotiated terms and summary pricing (without attribution to a particular project), should be open for public review.

Advice letters should identify the terms that deviated from the RFO terms and conditions and the positive or negative value placed on those terms by the utility. This will promote transparency and fairness and permit interested parties to participate effectively in the RPS process.

Thank you for this opportunity to comment on issues affecting the transparency of the LCBF process.