



GUEST JUICE:
The RPS - Ugly, but Working
By Nancy Rader

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There is a lot of grumbling - much of it echoed in these pages - that the state's renewables portfolio standard law is fatally flawed. Pundits grouse that only about 300 MW of new capacity will have come on line by year's end, and most retail suppliers apparently are not meeting their early-year targets.

But this view misses the bigger picture.

There have indeed been problems, but the law itself is sound. It has spurred an enormous amount of development activity, and it promises to deliver on its lofty goal of using renewable resources (excluding large hydro) to supply one-fifth of the electricity used by the world's fifth-largest economy.

If we are to meet this goal sooner rather than later, however, the California Public Utilities Commission must be committed to doing what it takes to ensure that retail sellers have the proper incentives to follow through on their obligations. This may involve imposing penalties for compliance shortfalls resulting from poor procurement practices by retail sellers and foot-dragging by transmission-owning utilities.

That the law is spurring substantial renewable resource development is undeniable. Consider the following:

- The state's utilities and the California Independent System Operator are well on their way to planning transmission access to some 10,000 MW in the state's richest renewable resource areas. It is within the state's ability - with the right attitudes and incentives - to build capacity accessing half of those resources by 2010.
- Over 6,000 MW worth of wind projects are in the CAISO queue, plus another 4,000 MW of solar and other renewables projects.
- The investor-owned utilities have signed contracts for up to 3,700 MW of renewables projects under various stages of development. If not "steel in the ground," it is a necessary prerequisite.
- Repowering of the state's aging wind projects has slowly begun after five years of inactivity spawned by our utilities' successful effort to deny them federal tax credits since 1999.

In short, the wind and other renewable energy industries are alive again in California - a complete turnaround after more than a decade of virtual dormancy.

Given this lost decade, it's not too surprising that we don't have more projects developed. It comes with the electric industry territory that resource additions come in lumps as transmission capacity is added. And it has taken time to implement the law. But the needed momentum has now been gained, and there are clear signs of major progress.

Some who are impatient with the progress have called for fundamental changes in the law. While the law is indeed complex, that was unavoidable. Adopting the nation's most ambitious renewables requirement triggered understandable nervousness about cost. That, combined with the unwillingness of some to part with the AB 1890 "public goods charge" fund for renewables - the less-than-successful subsidy program created in the 1996 deregulation bill - led to a cost cap composed of the "market price referent" and "supplemental energy payments." The payments will cover costs above the market benchmark until the fund runs out. There was also concern about grid impacts and indirect costs on the system, which led to the convoluted "least-cost, best-fit" bid evaluation process.

In short, the renewables portfolio standard bill, SB 1078, reflected the legislative process attempting to balance competing interests. Revamping the law won't erase those interests. While many of us might dream of a law as elegant and effective as that in Texas - an uncomplicated mandate requiring retailers to achieve an annual goal or incur an immediate 5¢/kWh penalty - California's retail market, unlike Texas's, is not competitive.

We cannot rely on the pressures of competition to steer our utilities toward the most efficient procurement decisions. The recourse that these monopolies have to the pocketbooks of their customers requires regulatory oversight to ensure that they are making good decisions.

That said, serious mistakes have been made and aggressiveness has been generally lacking. The CPUC must take action to get us on track to meet the renewables goals. Transmission is the linchpin.

The CPUC must promote network transmission designs. It must provide necessary cost-recovery assurances to the utilities that are financing these upgrades. And it must expedite the permit approval and construction processes as much as possible.

The state regulators must also hold retailers accountable for meeting the annual RPS targets, and without stretching the compliance flexibility measures beyond all recognition. The utilities asked the CPUC for a lot of flexibility in how they meet the RPS goals - and they've received it.

For example, there is almost no standardization of the important contract terms and little transparency in the least-cost/best-fit determination.

Two weeks ago, the CPUC issued a ruling signaling its interest in revisiting many of its decisions that deferred to the utilities' judgment. Early on, my organization was the most insistent that the CPUC be prescriptive. We continue to believe that more control is likely to be necessary. But this will not excuse the utilities for using their discretion poorly so far. The imposition of noncompliance penalties is a critical tool - as it has been in Texas - in spurring successful procurement practices.

This is not to say that the utilities will necessarily deserve all of the blame if they fall short of the targets. It is clear that new transmission is necessary to meet the targets at least in the later years, and transmission can be hurried only so much. It is also not the fault of the utilities that project permitting in California is more difficult than anywhere else in the nation. (We are hopeful that the Energy Commission's foray into wind siting guidelines will improve the situation, but this is not yet clear.)

Nevertheless, the utilities' failure to meet near-term targets may very well justify some penalties based on what appears to be unduly onerous contract terms, insufficient due diligence in weeding out projects that have little chance of success, and obstructive or ineffective transmission planning. It therefore is important for the CPUC to "stay the course" and impose penalties as deserved rather than completely bailing out the utilities with the promise of future improved regulation.

The framework of the law is sound, and producing results. What is needed is continued refinement of the regulatory program, and a stiff spine on the part of the state's regulators and legislators so that retail providers are clear that meeting the renewables portfolio standard goals is a top priority.

-- *Nancy Rader is executive director of the California Wind Energy Association.*