

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

Order Instituting Rulemaking to Implement the
California Renewables Portfolio Standard
Program.

Rulemaking 04-04-026
(Filed April 22, 2004)

**REPLY COMMENTS
OF THE CALIFORNIA WIND ENERGY ASSOCIATION
ON THE PROPOSED DECISION OF ALJ SIMON
REGARDING LONG-TERM RPS PLANS**

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October 3, 2005

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Pursuant to Rule 77 of the Rules of Practice and Procedure of the California Public Utilities Commission (the "Commission"), the California Wind Energy Association ("CalWEA") submits these reply comments on the Proposed Decision of Administrative Law Judge Simon on the utilities' long-term RPS plans ("Proposed Decision"). CalWEA limits its reply to the issues raised by the Center for Biological Diversity ("CBD") in its opening comments. In general, CalWEA welcomes the efforts of CBD to foster the acceleration of repowers, which will help achieve our common goal of reducing avian fatalities in the Altamont Pass. It would also be our hope that an aggressive repowering promotion program will assist in bringing an end to the avian-related litigation, which ironically serves to deter investments in repowers. We also note that repowering will improve the value of wind facilities on the grid (e.g., new wind turbines have higher capacity factors, do not consume VARs, and will meet FERC's new grid-reliability standards).

As CBD correctly points out and as the Proposed Decision acknowledges, repowering wind projects in the Altamont Pass will be a critical component of PG&E's RPS compliance strategy. CBD also correctly notes that the Proposed Decision finds PG&E's approach to securing repowers (and other resources) lacking in specificity. Most importantly, CBD asserts that the Proposed Decision fails to address the specific "economic and environmental realities blocking repowering at Altamont Pass." CBD Comments at 3.

CalWEA agrees with CBD that, if the Proposed Decision is adopted without modification, the Commission will miss an important opportunity to secure additional repowers in the Altamont Pass (and perhaps elsewhere) in a timely fashion. CBD is absolutely correct in its view that the unique California-specific provision of the federal production tax credit (“PTC”) statute called the “California Fix” has seriously retarded the progress of repowering in the Altamont Pass and elsewhere. This is because the California Fix requires wind developers to secure a contract amendment from the utilities in order to obtain PTCs. In all but only a few cases, the utilities have been unwilling to offer PTC amendments on terms acceptable to wind developers that have existing standard-offer contracts.

The Proposed Decision declines to adopt the many specific suggestions offered by CalWEA for improving PG&E’s repower plan; instead relying upon the reasonable business judgment of the parties and the annual procurement targets as incentives. Proposed Decision at 16-17. Like CBD, CalWEA is concerned that this is not good enough, especially as the utilities are already seeking (and appear to be obtaining some support) to manipulate compliance rules to avoid the potential for non-compliance penalties. CalWEA remains concerned that the utilities will continue to hold out and prevent repowers on reasonable terms.

The good news is that the exceptions to the utilities unwillingness to enter into reasonable contract amendments referred to above, which have been approved recently by the Commission, offer an excellent starting point for fostering additional repowers. In particular, in Resolution E-3935, adopted on July 21, 2005, the Commission approved four PPA amendments between Southern California Edison Company and various wind resource operators. The amendments were designed to allow the operators to repower their facilities and to qualify for PTCs. The amendments provide that incremental energy and capacity deliveries after the repowers will be priced at SRAC, but the developers can retain the full value of their existing contract capacity payments for their historical or estimated deliveries.

While one size clearly does not fit all, CalWEA believes that if the utilities were willing to extend this approach more broadly, and in the Altamont Pass in particular, wind developers

will respond.¹ In light of the high level of current and expected future natural gas prices, which drive utility avoided costs upwards, SRAC prices are attractive to renewable resource developers, including wind developers. Of all the suggestions offered by CalWEA in these proceedings for improving the repower climate, this may be the most productive in the short term.

CalWEA acknowledges that PG&E and Edison have been complaining about SRAC pricing for some time, and may object to more widespread application of the approach taken by Edison in these four instances because of their concerns with SRAC pricing. These concerns, however, must be rejected by the Commission. For one thing, SRAC prices are currently higher than SRAC prices from the 1980s and 1990s because natural gas prices are also higher than they were in the past. As such, utility avoided costs are indeed higher than they once were. For another thing, the Commission sets SRAC prices. If the prices are either too high or too low, it is the Commission's responsibility to adjust them and get them right. The Commission, however, cannot legitimately base policy upon claims that such prices are wrong. Finally, the Commission, in R.04-04-025, is currently reviewing its SRAC pricing methodology and has the opportunity to make sure that the SRAC prices to be paid under the PTC amendments will properly reflect utility avoided costs.

As such, CalWEA urges the Commission to encourage, as strongly as possible, PG&E and Edison to offer contract amendments akin to those adopted in Resolution E-3935 broadly to any developer seeking a repower. There is presently a window of opportunity to obtain additional repowers that should not be lost.

¹ The response will be even greater if the Commission adopts a fixed price alternate to traditional SRAC pricing in the currently ongoing avoided cost and QF policy proceedings, R.04-04-025/R.04-04-004.

Conclusion

For these reasons, CalWEA requests that the Commission revise the Proposed Decision to encourage, as strongly as possible, the utilities to enter into contract amendments akin to those adopted in Resolution E-3935 with any wind developer seeking to repower.

Respectfully submitted,



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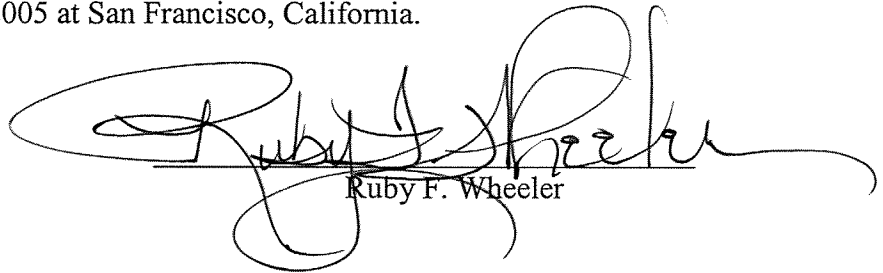
Certificate of Service

I hereby certify that I have this day served a copy of the

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On all known parties to R.04-04-026 by electronic mail and mailing a properly addressed copy by first-class mail with postage prepaid to each party that did not give an email address named in the official service list.

Executed on October 3, 2005 at San Francisco, California.



Ruby F. Wheeler