

**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

Implementation of Renewables Portfolio)	Docket No. 03-RPS-1078
Standard Legislation (Public Utilities Code)	RPS Proceeding
Sections 381, 383.5, 399.11 through 399.15, and)	
445; [SB 1038], [SB 1078]))	Business Meeting

**COMMENTS OF THE
CALIFORNIA WIND ENERGY ASSOCIATION (CALWEA)
AND
THE UTILITY REFORM NETWORK (TURN)
ON THE FINAL COMMITTEE REPORT
ON PHASE I RPS IMPLEMENTATION ISSUES**

The California Wind Energy Association (CalWEA) and The Utility Reform Network (TURN) participated in the March 25, 2003, Staff Workshop on Eligibility Issues and, on March 28 and May 8, 2003, submitted written comments on the Phase I topic issues in this proceeding on the Renewables Portfolio Standard (RPS). In these comments, we urge the Commission to make two important changes to the Renewables Committee’s Final Report on Phase I Implementation Issues (“Committee Report”).

CalWEA and TURN are largely supportive of the Committee Report. In particular, we support the Committee’s decision that:

- out-of-state renewable power be eligible for the RPS, if certain conditions are met (with one proposed change below);
- energy from existing geothermal facilities is to be counted toward the baseline, except for energy that the Commission determines to be “incremental”; and
- “incremental” geothermal is limited to capital expenditures associated with new or replaced generation capacity or increased water injections, and that it exclude investments that would have been done in the normal course of business (however, we believe that two modifications must be made to the eligibility criteria adopted by the Committee, as indicated below).

Some modifications related to these issues are essential, however, in order to ensure that SB 1078 and SB 1038 achieve a steady increase in the renewable energy physically serving California – goals that we believe were intended by the Legislature. The required modifications are as follows.

1. Incremental geothermal generation should be recognized only if it results from capital expenditures completed after December 31, 2001

The Committee Report determined that, to be deemed “incremental generation,” eligible capital expenditures must, in part, reflect a capital project completed after September 26, 1996. (Committee Report, p. 17-18.) The Committee rejected CalWEA’s and TURN’s arguments that production should be deemed incremental only if the capital project was completed after December 31, 2001.

While we agree that different interpretations are possible under SB 1078 and SB 1038, and that the Committee’s interpretation is a plausible one, it remains true that the statutes do not direct the Commission to use 1996 as the baseline for determining incremental production. Rather, it leaves the certification of incremental production to the Commission.

Given the deference given to the Commission, we urge the Commission for important policy reasons to establish December 31, 2001, as the date after which completion of capital investments may produce incremental geothermal energy. First, adopting the 1996 date would erode the new renewables generation that would otherwise be developed (or support for the at-risk existing generation that would otherwise remain on line) under the RPS annual-increase requirement. This is because the practical effect of adopting the 1996 date is to potentially enable production at The Geysers, which results from the Lake County wastewater pipeline, to qualify. This pipeline (which became operational in 1997) has increased production at The Geysers by approximately 70 MW.¹ The associated production would constitute approximately one-third of the initial annual one-percent RPS requirement for all three utilities.

Second, counting as “incremental” production resulting from the Lake County wastewater pipeline project would simply provide a windfall to project owners who made capital investments in that project without any expectation of benefiting under either the PGC programs or the RPS. Moreover, the Geysers project owners provided less than half of the funds for that capital project.²

A second pipeline project for the City of Santa Rosa is scheduled to be completed by the end of this year and is expected to increase production at The Geysers by 85 MW.³ This project would not be excluded by a December 31, 2001, project-completion date, even though it, too, was completed without any expectation of RPS eligibility and

¹ “U.S. Geothermal Update: Geothermal Power and Direct-Utilization Development and Contributions to U.S. Energy Supply During 2002” (Figure 1), March/April 2003 edition of the GRC Bulletin (the bulletin of the Geothermal Resources Council).

² According to a website dedicated to this project, the industry’s share of the total project cost was 40% of the \$45 million project (see <http://www.geysers-pipeline.org/history.htm>). Various local, state and federal government agencies provided the balance of funds. Thus, the increased production was obtained at a fraction of the cost of new geothermal development.

³ Note 1, *supra*.

benefits from a significant government cost-share.⁴ Thus, the two wastewater projects combined would eliminate about two-thirds of an entire year's RPS requirement for all three utilities, even though it is clear that these projects were undertaken before the "incremental geothermal" provision of the RPS statute was adopted and will be completed regardless of the Commission's decision on this point.

We do not believe that, in adopting the "incremental geothermal" provision, the legislature intended for retail sellers to be able to fulfill a substantial portion of their renewables requirement in the first effective year of the RPS with resources that would have been produced regardless of that provision. Therefore, we urge the Commission to establish December 31, 2001, as the date after which a capital expenditure must be completed in order to qualify as producing incremental geothermal generation.

2. Out-of-State Power Should Be Delivered Into California

We support the Committee's decision that out-of-state renewable power be eligible for the RPS if the facility (1) is located near the border and has its first point of interconnection to the WECC transmission system located within the state, or (2) meets the eligibility criteria for Supplemental Energy Payments (SEPs) in that the facility is located so that it is or will be connected to the WECC grid, and is developed with guaranteed contracts to "sell its power to ... end use customers of California IOUs." (Committee Report at p. 22.)

In the discussion of the second criteria, however, the Committee recommends that

out-of-state generators be subject to the same deliverability requirement as in-state generators. All generators must be able to deliver their power to the market hub or substation in the WECC transmission system designated by the contracting utility under the power purchase agreement. The Committee does not believe it is necessary for out-of-state generators to schedule and transmit their power to a designated location unless required to do so by the contracting utility under the power purchase agreement.

(Committee Report at p. 26, emphasis added.) This policy would fail to ensure that out-of-state power is actually delivered into California and thereby change the fuel mix actually serving Californians (let alone the purchasing utility's own customers), deliver in-state environmental benefits and, likely, fixed-price power benefits. The policy also would be unworkable when it comes to electric service providers (ESPs) who are far more likely to comply via tradable credits (assuming credit trading is ultimately allowed) than via power contracts.

Instead, the Commission should require that out-of-state power actually be delivered – i.e., scheduled and transmitted – into California. This is entirely possible

⁴ According to the City of Santa Rosa, the geothermal industry is putting up 35% of the project cost. See <http://ci.santa-rosa.ca.us/geysers/>.

under a robust tracking system, as is in place in New England. (See, e.g., the March 28, 2003, comments of APX, Inc., in this proceeding.)

Thank you for considering our views.

Respectfully submitted,

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