

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

Order Instituting Rulemaking to Develop	)	
Additional Methods to Implement the California	)	Rulemaking: 06-02-012
Renewables Portfolio Standard Program	)	(Filed February 16, 2006)
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**Reply Comments  
of the California Wind Energy Association,  
the California Cogeneration Council,  
the Large-scale Solar Association, and  
the Solar Alliance  
on the Proposed Decision of ALJ Simon**

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On Behalf of  
**CALIFORNIA WIND ENERGY ASSOCIATION,  
CALIFORNIA COGENERATION COUNCIL,  
LARGE-SCALE SOLAR ASSOCIATION, and  
THE SOLAR ALLIANCE**

October 14, 2008

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**Reply Comments of the CalWEA *et al.* on the Proposed Decision of ALJ Simon**

In accordance with the Commission’s Rule 14.3(d), the California Wind Energy Association, the California Cogeneration Council, the Large-scale Solar Association, and the Solar Alliance (collectively, CalWEA *et al.*) hereby submit reply comments on the Proposed Decision of ALJ Simon (PD) on issues concerning the 2008 market price referent (2008 MPR).

**1. Gas Forecasting Methodology.** At the outset, CalWEA *et al.* wish to express dismay that Southern California Edison (Edison) and San Diego Gas & Electric (SDG&E) have chosen to wait until their opening comments on the PD to present significant new proposals and factual information concerning the MPR gas forecasting methodology. SCE and SDG&E have known since the ALJ’s February 8, 2008 Ruling Requesting Pre-Workshop Comments and the parties’ pre-workshop comments filed on March 6, 2008 that this case would review (1) the use of 12 years of NYMEX data and (2) the premium in the MPR gas forecast over fundamentals forecasts. The two utilities raised their concerns with these issues at the workshop and in post-workshop comments. Their comments were brief: for example, SDG&E’s comments on these issues in their post-workshop comments were just two pages. Now, SDG&E’s opening comments on the PD on gas issues include 10 pages of discussion, several tables and figures with new NYMEX and CEC data, and a 30-page FERC order. Replies to this new evidence, and to all other comments, are limited to five pages. The Commission’s Rule 14.3(c) specifies that comments on a PD “shall make specific references to the record.” Edison and SDG&E failed to develop that record when they had ample opportunity to do so. The Commission should give little weight to the efforts of Edison and SDG&E to create a new record at this eleventh hour.

The first new proposal that the Commission should reject is Edison's request that the MPR gas forecast should be based on today's natural gas prices.<sup>1</sup> This would change the past, Commission-approved practice of using gas price data from the month prior to the date when the RPS solicitation closes. Commodity and energy prices have recently spiked downwards as a result of the turmoil from the global financial crisis. Edison is clearly trying to use this downward spike to depress the 2008 MPR price. Edison would never have made such a proposal if circumstances were the reverse, as they were exactly three years ago when Hurricanes Katrina and Rita caused natural gas prices to spike higher for several months in the fall of 2005. The Commission has wisely determined that MPR gas prices should be sampled based on a date that, when it is chosen, is far enough in the future such that the MPR cannot be gamed based on circumstances in the gas market. Based on this wise past practice, the 2008 MPR will be based on forward gas prices sampled in the month ending May 12, 2008. Some parties might prefer to use prices from July 2008 (when gas prices peaked almost 30% higher than in April/May); Edison wants to use today's depressed prices (which it says are 10% below April prices). The bottom line is that the Commission cannot open the door to such blatant gaming of the MPR.

SDG&E and Edison oppose the PD's adoption of the use of the full 12 years of NYMEX price data and the change that the PD adopts to the MPR gas forecast for years 13 and beyond; they urge the Commission to retain the present gas forecasting methodology. The utilities assert that the NYMEX data for years 7-12 are thinly-traded, do not reflect market transactions, are volatile, and do not meet FERC standards for the use of price indices in jurisdictional tariffs.

CalWEA *et al.* first observe that there are relatively few trades in years 3-6 of the NYMEX market, yet these years have been used in the MPR method since 2004, with no problems.<sup>2</sup> When the MPR methodology was formulated in 2004, there were only a few years of experience with years 4-6 of the NYMEX contract, which NYMEX added in 2001. This positive

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<sup>1</sup> SCE PD Comments, at 2-3.

<sup>2</sup> SDG&E attaches a single day of trading data that shows no trades on that day for the last six years of the NYMEX contract. It is unclear how representative this day is.

experience, as well as the long history and reliable record of the NYMEX gas futures market, should provide the Commission with confidence to use all 12 years.<sup>3</sup> Further, SDG&E's assertion that its data show that the last year (2020) of NYMEX data is "volatile" is simply wrong. In fact, the data show that the price for 2020 is much less volatile than the price for 2009 (which SDG&E agrees is robust).<sup>4</sup> In addition, NYMEX prices contain important market information even when there are relatively few or no trades. As observed in the most recent Lawrence Berkeley National Laboratory (LBNL) study (which both the PD and SDG&E cite):

...while thin liquidity may prohibit large-volume trades, it does not necessarily discredit the quality of the price information contained in settlement prices. If the price were way out of line with general market expectations, traders and speculators would be expected to brave the wide bid/offer spreads (resulting from illiquidity) to make a profit while driving the price back into line with expectations.<sup>5</sup>

The LBNL researchers also commented on the NYMEX data for years 7-12, stating that "this additional level of price discovery in longer-dated forwards should facilitate the construction of longer-term market-based forecasts that can be used to more-clearly replicate the long-term price stability that renewables can provide."<sup>6</sup>

Even if the Commission continues to use just the first six years of NYMEX data, the new NYMEX data for years 7-12 show clearly that the 2005 - 2007 MPR models were wrong to use just a short transition in years 7-10 from NYMEX to the fundamental forecast. The current

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<sup>3</sup> The NYMEX gas market is far deeper and has a much longer track record than the forward electric markets in California, which D. 07-09-040 adopted for use in QF pricing. The fact that the Commission limited the use of those electric forward markets (whose prices are not even public) to 12 months is appropriate given the limited extent and reduced transparency of those markets. However, such limits are not needed for the far more robust and visible NYMEX gas futures market.

<sup>4</sup> In SDG&E's data set, the price for 2020 rises by 18% from March to July 2008, then drops by 23% by September 2008. This is much less volatile than the 2009 NYMEX contract: the price for 2009 rises by 31% from March to July, then drops by 35% by September.

<sup>5</sup> This quote is from page 3, fn 2, of the last LBNL study cited in footnote 7 of the PD. SDG&E also fails to note that, in the passage that they cite from the LBNL study, it is clear that the LBNL researchers consider NYMEX's approach to setting prices when there are no consummated trades to be "methodologically sound."

<sup>6</sup> *Ibid.*, at 11.

method assumes that the price premium for a fixed-price gas supply declines to zero by year 10. The new NYMEX data, even if it is not completely reliable, shows that the premium in NYMEX prices that is seen in years 1 - 6 continues in years 7-12 and should be extended to all years of the MPR gas forecast. There is no basis to conclude that, if there is a significant cost to fix the price of a gas supply for years 1 - 6, this cost disappears in subsequent years. Thus, even if the Commission decides to use just the first six years of NYMEX data, the Commission should retain the PD's provision that the first year of the forecast after the NYMEX data ends (i.e. year 7) should be based on a linear trend derived from years 4-6 at the end of the NYMEX data set. Then the price in year 7 would escalate at the same rate as the fundamental forecast.

**2. GHG Adder.** Edison continues to argue against making the greenhouse gas adder to the MPR permanent; in a nutshell, its argument is that “California does not have sufficient information on which to base a GHG adder for a regional or national cap-and-trade program.”<sup>7</sup> We remind the Commission that the currently-adopted E3 GHG values are not California-specific, and were developed in large part from models of national and international GHG mitigation costs under the Kyoto Protocol.<sup>8</sup> The PD would allow the Commission to update the E3 GHG values using recent, similarly-broad models that the Synapse study reviews. GHG emissions are a planetary problem, and accurate estimates of GHG mitigation costs require a perspective that is not limited to California or the western U.S..

**3. Confidentiality of the MPR.** PG&E continues to assert that the MPR is “market-sensitive” information and should be kept confidential; SDG&E joins PG&E in arguing that whether an RPS contract is above or below the MPR also should be protected.<sup>9</sup> PG&E claims that the MPR meets the test set forth in D. 06-06-066 as “market-sensitive” information because the MPR may have a material impact on the price of electricity. PG&E continues to ignore the fact that bidders do not know the MPR when they bid – bidders do not know the MPR input

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<sup>7</sup> Edison Opening Comments, at 10-11.

<sup>8</sup> The source of the current E3 GHG values are summarized in CalWEA's Opening Comments, at 11.

<sup>9</sup> PG&E Opening Comments, at 5-7; SDG&E Opening Comments, at 13-14.

assumptions that Energy Division will choose, nor do they know how the Commission will decide pending MPR methodology issues (such as the complex issues in this case). All of these choices have significant impacts on the MPR. The argument that an RPS contract's relationship to the MPR is "market sensitive" is even harder to understand. The utilities are concerned about information on whether a contract price from a prior solicitation is above or below the MPR from a past year. This provides no additional information about the MPR in the current solicitation, and no information about whether the contract is 0.01 cents/kWh above the MPR or 5 cents/kWh higher. If the MPR influences RPS prices, it is because the utilities allow MPR-linked bids or permit bidders to change their bids once the MPR is known – matters that are within the utility's control. The way to reduce any possible influence that the MPR might have on RPS bids is for the utilities to make clear that the MPR has no role in their own least-cost, best-fit evaluation of RPS bids. In sum, the MPR does not meet D. 06-06-066's definition of "market sensitive" information, and PG&E's effort to make the MPR confidential is contrary to the Commission's intent in D. 06-06-066 that there should be "greater openness for RPS data" due to the substantial public interest in meeting California's renewable energy goals.<sup>10</sup>

CalWEA, CCC, LSA, and SA appreciate the Commission's attention to these reply comments on ALJ Simon's Proposed Decision on the 2008 MPR.

Respectfully submitted,

/ s / R. Thomas Beach

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<sup>10</sup> D. 06-06-066, at 59-60.

## CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served a copy of the foregoing document, **Reply Comments of the California Wind Energy Association, the California Cogeneration Council, the Large-scale Solar Association, and the Solar Alliance on the Proposed Decision of ALJ Simon**, by Electronic Mail where possible and First-Class Mail where not, on all known parties to R. 06-02-012, named on the service list attached to the original certificate of this document pursuant to the Commission's Rules of Practice and Procedure.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Berkeley, California, Tuesday, October 14, 2008.

/s/ Christa Goldblatt

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