



California Wind Energy Association

February 5, 2009

Mr. Honesto Gatchalian
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: CalWEA's Comments on Draft Resolution E-4199

Dear Mr. Gatchalian:

The California Wind Energy Association (CalWEA) is largely supportive of Draft Resolution E-4199, in particular: consistent with statute, its rejection of proposals to limit above-market funds (AMFs) to in-state facilities, and its provision to make public the utilities' AMF balances, which is essential to inform the public and policymakers regarding the status of the RPS program and the ability to achieve RPS goals.

However, we urge the Commission to make a few important modifications, which are necessary to assure market participants that the Commission is committed to fostering a competitive renewable energy market and will not subject commercially sensitive financial information to intrusive and unnecessary regulatory review.

1. In evaluating the reasonableness of the pricing of proposed new contracts seeking AMFs (p. 24-25):
 - the Draft Resolution provides that contract prices above the market-price referent (MPR) be evaluated against existing review standards, including bid supply curves from the IOU's recent solicitation and the project's least-cost best-fit ranking relative to the other projects that bid into the solicitation. The Draft Resolution also requires the project-specific Independent Evaluator report to discuss the project's price reasonableness from a market perspective. These means are more than sufficient to determine the price reasonableness of a bid. The Commission should eliminate the further provision enabling the Energy Division to request financial information on a case by case basis.

This practice would be burdensome both for the Commission and for developers, and would chill interest in conducting business in this state. Bid prices should be judged against those of the competition.

- the Draft Resolution provides that Energy Division staff may consider the generator cost curves produced by RETI. We have no objection to this, provided that the Draft Resolution state that the uncertainties associated with the RETI cost curves also be considered. The cost curves produced in the RETI reports to date are associated with a high margin of error (see RETI Phase 1B Final Report, Figure 5-6, p. 5-21). These uncertainties relate to financing assumptions, technology costs, resource quality and many other factors that consultants cannot know but developers must account for. Although obscured in the RETI report, these uncertainties must not be ignored. Moreover, unless updated regularly, the RETI reports will quickly become stale.
2. In evaluating the reasonableness of the new price of proposed amended contracts seeking AMFs (p. 25-26), the Draft Resolution provides that developers will be required to provide, on a confidential basis, the Energy Division and the Independent Evaluator with cash flow models supporting the reasonableness of the revised pricing in light of the market. The requirement and any authorization to review cash-flow models should be eliminated. The Energy Division can request information relating to the components of the bid whose costs have changed without requesting the cash-flow model itself.

We urge the Commission to make these modifications to make clear that the RPS program is founded on a commitment to promote competitive markets to achieve program goals at least-cost. The utilities and the Commission have the ability to throw out bids whose prices are not reasonable or justified. The Commission should refrain from looking into the books of market participants and subjecting them to inappropriate and unnecessary regulatory review.

Sincerely,



Nancy Rader
Executive Director

cc: President Michael R. Peevey
Commissioner John A. Bohn
Commissioner Timothy A. Simon
Commissioner Rachelle B. Chong
Commissioner Dian M. Grueneich
Julie Fitch, Director of Energy Division
Sara Kamins, Energy Division
Service Lists for R.06-02-012 and R.08-08-009

Certificate of Service

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

California Wind Energy Association's Comments on Draft Resolution E-4199

on all known parties to R.08-08-009; and R.06-02-012 by sending a copy via electronic mail and by mailing a properly addressed copy by first-class mail with postage prepaid to each party named in the official service list without an electronic mail address.

Executed on February 5, 2009, at San Francisco, California.



Marcus Hidalgo