

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

Order Instituting Rulemaking to Continue
Implementation and Administration of California
Renewables Portfolio Standard Program.

Rulemaking 08-08-009
(Filed August 21, 2008)

**REPLY COMMENTS OF THE CALIFORNIA WIND ENERGY
ASSOCIATION ON PROPOSED DECISION CONDITIONALLY ACCEPTING
2009 RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLANS AND
INTEGRATED RESOURCE PLAN SUPPLEMENTS**

Joseph M. Karp
Thomas W. Solomon
Winston & Strawn LLP
101 California Street, 39th Floor
San Francisco, California 94111-5894
Telephone: (415) 591-1000
Facsimile: (415) 591-1400
Email: jkarp@winston.com
tsolomon@winston.com

May 26, 2009

Attorneys for the California Wind Energy Association

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

Order Instituting Rulemaking to Continue
Implementation and Administration of California
Renewables Portfolio Standard Program.

Rulemaking 08-08-009
(Filed August 21, 2008)

**REPLY COMMENTS OF THE CALIFORNIA WIND ENERGY
ASSOCIATION ON PROPOSED DECISION CONDITIONALLY ACCEPTING
2009 RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLANS AND
INTEGRATED RESOURCE PLAN SUPPLEMENTS**

I. INTRODUCTION

Pursuant to Rule 14.3(d) of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the California Wind Energy Association ("CalWEA") respectfully submits these reply comments on Administrative Law Judge ("ALJ") Mattson's proposed *Decision Conditionally Accepting 2009 Renewables Portfolio Standard Procurement Plans and Integrated Resource Plan Supplements* ("Proposed Decision"). CalWEA has reviewed the comments on the Proposed Decision submitted by Pacific Gas and Electric ("PG&E"), Southern California Edison ("SCE"), and San Diego Gas and Electric ("SDG&E"). Based on this review, CalWEA provides the following reply comments.

The Commission should reject (i) SDG&E's proposed geographic boundary for establishing the renewable resources enabled by the Sunrise Powerlink Transmission Project ("Sunrise") because it is arbitrary and unduly discriminatory, and (ii) claims by PG&E, SCE, and SG&E that the Proposed Decision mandates utility up-front funding of network upgrades by including a requirement that a utility claiming lack of transmission must justify its decision to forego up-front funding.

Both of these recommendations are addressed in greater detail below.

II. ARGUMENT

A. **The Commission Should Reject SDG&E's Proposed Geographic Boundary for Establishing the Renewable Resources Enabled by Sunrise**

In its comments, SDG&E highlights its efforts to facilitate development of renewable resources in the Imperial Valley.¹ SDG&E also notes that the Commission has committed "to ensure that renewable resources enabled by Sunrise are . . . developed on a timely basis."² SDG&E then suggests that the Proposed Decision creates an ambiguity by using references only to "Imperial Valley," when the intent is to refer generally to those renewable resources enabled by the Sunrise project.³ SDG&E proposes to remedy this ambiguity by defining the area served by Sunrise, and thus eligible for Sunrise-related benefits in the procurement process, as a very specific geographic area defined as (i) all of Imperial County, (ii) eastern San Diego County (defined as east of 116 degrees, 46 minutes west longitude), and (iii) adjacent northern Mexico (defined as "the international border on the north, western most point intersecting the border at 116-45-52W, proceeding approximately 42 miles east southeast to a point 116-12W, 32-11N, proceeding approximately 83 miles east to a point 114-47E, 32-18-30N, proceeding north approximately 12 miles to a point on the international border at 114-46-55W").

While CalWEA agrees that the renewable resources enabled by Sunrise consists of a group that is much larger than those resources physically located in Imperial Valley, SDG&E's proposed definition of a geographic boundary is as arbitrary as simply referring to Imperial Valley and should therefore be rejected. Sunrise is an electric transmission project, which means that the physical location of a generating project is unimportant – flows on Sunrise are a function

¹ SDG&E Comments at 3.

² D. 08-12-058 at 8; SDG&E Comments at 4.

³ SDG&E Comments at 4-5.

of the location of the project's first point of electrical interconnection to the transmission system, not the location of the generating units themselves. Yet, SDG&E's proposed geographic zone is based on the location of the project, not the project's interconnection point. Also, as noted in CalWEA's opening comments on the Proposed Decision, the electrons from a particular resource will not travel on an exclusive transmission path – resources located in SDG&E's proposed geographic zone will not exclusively travel over Sunrise, while electrons from resources located outside the proposed SDG&E geographic zone may well travel on Sunrise. SDG&E's geographic zone considers only the physical location of the project, not the expected electrical impacts of the project, including potential flows over Sunrise. Because SDG&E's proposed geographic boundary considers only the physical location of the project, and not whether the project is enabled by Sunrise, it is arbitrary. Therefore, the Commission should reject it.

Moreover, SDG&E's carefully crafted geographic boundary for resources in northern Mexico is also discriminatory. Sempra Generation, SDG&E's affiliate, has projects under development in northern Mexico, such as the La Rumorosa wind project. In addition, there are over 2,600 MW of proposed wind projects in Baja California that are in the transition cluster portion of the California Independent System Operator's ("CAISO") interconnection queue, with another 400 MW in the CAISO's nearer-term serial group. CalWEA's understanding is that La Rumorosa would fall within SDG&E's proposed geographic boundary, while many of these other wind projects in Baja California that have a first point of interconnection with the Western Electricity Coordinating Council ("WECC") and are expected to create flows over Sunrise would fall outside the proposed boundary. Because SDG&E's proposed geographic zone will create winners and losers based on a line drawn on a map, without regard for actual electrical

impacts, it is unduly discriminatory as well as arbitrary. Accordingly, SDG&E's proposed geographic boundary for renewable resources enabled by Sunrise should be rejected.

B. The Commission Should Reject Claims by PG&E, SCE, and SDG&E That the Proposed Decision Mandates Utility Upfront Funding of Network Upgrades

PG&E, SCE, and SDG&E⁴ each take exception to the Proposed Decision's statement that a utility seeking to be excused from its renewable procurement obligations due to a lack of transmission may be required to justify a decision not to use the Commission's backstop funding tool.⁵ For example, SDG&E complains that the Proposed Decision "would appear to establish, if not a de jure, then certainly a de facto upfront funding requirement."⁶ Likewise, SCE characterizes this portion of the Proposed Decision as an "attempt to mandate the upfront funding of network upgrades for renewable projects."⁷

By its terms, the Proposed Decision does not mandate that the utilities provide upfront funding of network upgrades. The Proposed Decision cites Public Utilities Code Section 399.14(a)(2)(C)(ii) for the proposition that flexible compliance based on a lack of transmission requires a finding by the Commission that the utility took all reasonable efforts to ensure the availability of needed transmission.⁸ The Proposed Decision then notes that the utility must demonstrate that it has met this statutory requirement in order for the Commission to make the required finding, which may include reasonable use of the backstop funding tool.⁹

Contrary to the claims of PG&E, SCE, and SDG&E, this does not "mandate" upfront funding. Rather, this language clarifies the manner in which the Commission will exercise its

⁴ PG&E Comments at 4-8; SCE Comments at 8-9; SDG&E Comments at 5-6.

⁵ Proposed Decision at 42-43, Finding of Fact 20.

⁶ SDG&E Comments at 6.

⁷ SCE Comments at 8.

⁸ Proposed Decision at 42-43.

⁹ *Id.*

authority as the agency responsible for administering the Renewables Portfolio Standard ("RPS") program. If a utility seeks flexible compliance based on a lack of transmission, it must demonstrate reasonable use of the Commission's backstop funding tool as one of the potentially reasonable efforts that should have been considered pursuant to Public Utilities Code Section 399.14(a)(2)(C)(ii). This does not mandate upfront funding because the utility still has a choice between (1) meeting its RPS procurement obligations, (2) seeking flexible compliance on a different basis, or (3) demonstrating that use of the Commission's backstop funding tool was not reasonable. Because the utility still has a choice, the Proposed Decision does not mandate the use of upfront funding. Accordingly, the claims of PG&E, SCE, and SDG&E to the contrary should be rejected.

III. CONCLUSION

For the reasons set forth above, the Commission should adopt the recommendations set forth in these comments.

Respectfully submitted,



Joseph M. Karp
Thomas W. Solomon
Winston & Strawn LLP
101 California Street, 39th Floor
San Francisco, California 94111-5894
Telephone: (415) 591-1000
Facsimile: (415) 591-1400
Email: jkarp@winston.com
tsolomon@winston.com

Attorneys for the California Wind Energy Association.

May 26, 2009

VERIFICATION

I, Nancy Rader, am the Executive Director of the California Wind Energy Association. I am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing copy of *Reply Comments of the California Wind Energy Association on Proposed Decision Conditionally Accepting 2009 Renewables Portfolio Standard Procurement Plans and Integrated Resource Plan Supplements* are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

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

Executed on May 26, 2009 at Berkeley, California.



Nancy Rader

Executive Director, California Wind Energy Association

Certificate of Service

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

**REPLY COMMENTS OF THE CALIFORNIA WIND ENERGY
ASSOCIATION ON PROPOSED DECISION CONDITIONALLY ACCEPTING
2009 RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLANS AND
INTEGRATED RESOURCE PLAN SUPPLEMENTS**

on all known parties to R.08-08-009 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 May 26, 2009, at San Francisco, California.



Sallie Lopes