DOCKET
02-REN-1038
DATE
RECD. Aug 10 2011

California Energy Commission Dockets Office, MS-4
Re: Docket No. 02-REN-1038
1516 Ninth Street
Sacramento, CA 95814-5512

RE: “Possible changes to the Emerging Renewables Program Guidebook”

CEC Commissioners, Staff and to Whom It May Concern:

I attended the August 3rd Emerging Renewables Program workshop in Sacramento at the CEC offices. I have read through existing and previous ERP Guidebooks and the current “possible” changes. I have reviewed numerous CEC Business meeting minutes, all letters submitted to the April 14th ERP workshop docket, SB 1036 and related budgetary reports and legislative bills affecting ERP and the CEC.

Public records show that the New Renewable Resources Account (NRRA) was abolished in 2008 and $461 million dollars was given back to the Electric Corporations to refund ratepayers. It appears that also in 2008 that the $135 million per year IOU ratepayer contributions to the ERP and other CEC programs (Renewable Resource Trust Fund - RRTF) was reduced to $65 million per year until 2012. CEC Business meeting minutes and annual budget reports indicate how ratepayer monies were disposed of and that the CEC has approximately $44 million remaining in its RRTF account for the administration of the ERP and other CEC programs. Last year alone, $180 million was given away or loaned out of the fund, sometimes for questionable uses, even paying California ratepayer money to out-of- State vendors.

After reading all the letters submitted to the CEC docket regarding the ERP suspension and workshop held April 14, 2011, I noticed a striking similarity between the letters and “recommended changes” from the DWEA, CalWEA, AWEA, SWCC, Guasti Construction, and Mike Bergey. They look like the CEC’s “possible changes” to the ERP Guidebook. I did some research and discovered that Mike Bergey, of Bergey Windpower – a wind turbine manufacturer who received a 49% share of ERP funding for wind in 2009, is also the President of the DWEA, the Treasurer of the SWCC, and the former President of AWEA. He has an obvious conflict of interest between his for-profit operations and any changes to the Guidebook. Bergey’s organizations have been fighting to influence changes to the Guidebook that benefit the Bergey Windpower Company by calling for the elimination other manufacture’s products from the CEC wind equipment list, by trying to get a 50% maximum cost to rebate structure in place that matches the economics of his product, by calling for disqualification of competing rebate applications, and by attempting to force all turbine manufactures to test and certify their equipment through his organization the SWCC. According to their own website, the SWCC has never field tested or certified any wind energy equipment.

I reviewed correspondence from Bergey Windpower, his lobbyist Justin Malan, and the “Bergey populated” wind organizations including the SWCC testing /certification council to the CEC. Bergey and his affiliates have either met and/or corresponded with CEC Staff and Commissioners to support Bergey’s business interests as a manufacturer and

major stakeholder. In the DWEA docket submission and letter dated April 21, 2011, Mr. Bergey and Ms. Jenkins, as DWEA "President" and "Executive Director", offer their recommendations to change the ERP Guidebook, and also to provide the CEC with "exact language" (see attached DWEA letter page 14, paragraph 4, last sentence). In fact, point by point language was suggested that would directly benefit Bergey's business and eliminate his competition. The same languange for "recommended changes" was telegraphed to the CEC in matching letters from Nancy Rader at the CalWEA, and from the AWEA and SWCC.
As a side note, I phoned CalWEA with a legal question I had regarding wind energy permits and the law in California and Nancy Rader called back, leaving a message on my voice mail that CalWEA had nothing to do with small wind and I should call DWEA with my questions. Contrary to her phone message, Nancy Rader came out with a letter on behalf of the CalWEA, which can be found in the April 14 workshop docket, condemning Dyocore and alleging fraud and supporting Mr. Bergey's position. I believe Mr. Bergey requested that she write that letter, especially because it echos the same comments made in his own letters and in the writings of his subordinate affiliate organizations.

Placed side by side, the letters from Bergey or his affiliated organizations and the CEC ERP Draft Guidebook almost match. The CEC's ERP Guidebook should not allow language that would benefit one manufacturer and would stifle incentives for innovation.

Regarding the complaint against Dyocore, it seems over the top. The CEC has the authority to call into question any turbine or product that does not perform as reported and to require independent testing, proof of results, or any other remedy (within Section K) it deems appropriate to safeguard the program. The CEC does not need an inquisition and does not need to shut down the entire program in order to require a manufacturer to provide proof of product performance.

The fact is that suspension of the program was not required due to one turbine not performing as advertised, but because the applications for rebates exceeded the funds available for both the Wind program and the Fuel Cell program. Funds had been reduced so substantially in the last 3 years that only $44 million was left of $1.9 billion that was supposed to be in the CEC coffers by the end of 2011 ($540 million, 1998 to 2001, plus $135 million per year from 2001 to the end of 2011).

SB 1036 raided the renewables "NRRA" fund and reduced the annual required contribution from the IOU Electric Corporations to the RRTF from $135 million to $65 million per year. I doubt that ratepayers ever received a refund they were entitled to, since the language of SB 1036 loosely allows the Utilities to "amortize" required refunds to ratepayers and gives no specific length of time for payback. It looks like SCE is planning to use $322 million of the money for PPA's with Caithness Energy from a wind project called "Shepherds Flat" in Oregon. http://oregoncatalyst.com/10981-boondoggle-boondoggles.html Maybe the CEC can get the money back, if it has not been spent or refunded to ratepayers as required by SB 1036.

In the interest of fairness, I request that any "possible changes to the Emerging Renewables Guidebook" do not favor a particular manufacturer, their business interests, or the opinions of their subordinate affiliated organizations.

I request that any Guidebook changes and Emerging Renewables Program shall:

- NOT include language to reduce rebates to 50% of system cost, which would discourage competition and encourage price fixing or price increases.
- NOT place any applications for Wind rebates on hold or disqualify them if they are associated with Dyocore. Dyocore is a separate issue. The CEC should allow ALL pre-suspension Wind rebate applications to be modified and completed to include alternate CEC listed equipment and issue all 1069 "R2" rebate authorizations.
- Sequester funds away from the "Renewable Resource Trust Fund"(RRTF) and into an account for ERP Wind only, in amounts sufficient to cover existing rebate demand and to allow for future wind rebates thru 2016.
- Replace $180 million or more of loan repayments into the ERP only account and allocate additional funding to the Emerging Renewables Program, specifically from RRTF monies or other sources.
- Stop conflict of interest self dealing, or any appearance thereof and remove SWCC from the testing agency list until such conflicts of interest are removed.
- Reopen the program as soon as possible.

Thank you,

Jai Pal S Khalsa AIA
TKG West/TKG Solar

Exerpts & attachments:

Feb 27, 2008 CEC meeting exerpt, Item 9
RENEWABLE RESOURCE TRUST FUNDS. Possible approval of transfer of $461,672,772 from New Renewable Resources Account funds to California electrical corporations serving customers subject to the renewable energy public goods charge. Senate Bill 1036 (Chapter 685, Statutes of 2007) abolishes the New Renewable Resources Account and requires the Energy Commission to transfer the Account's remaining unencumbered funds back to the appropriate utilities by March 1, 2008. Contact: Mark Hutchison. (10 minutes)*The amount of the transfer was corrected to $461,681,784. Commissioner Rosenfeld moved and Commissioner Byron seconded approval of the transfer of funds. The vote was unanimous. (4-0)*

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Fund Condition History

Renewable Resource Trust Fund—Fund Condition History

(In Millions)

	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05
Beginning Balance	—	$54.9	$78.0	$107.4	$57.1	$144.1	$90.2	$89.2
Revenue/Transfers								
Revenues	$66.6	101.5	113.9	131.4	188.4	179.3	140.6	145.8
Loans/transfers out	—	—	—	—	—	-170.5	—	—
Loan repayments in	—	—	—	—	—	1.0	3.3	4.7
Subtotals	($66.6)	($101.5)	($113.9)	($131.4)	($188.4)	($9.8)	($143.8)	($150.5)
Expenditures	$11.6	$78.5	$84.4	$181.7	$101.4	$63.6	$144.8	$93.3
Ending Balances	**$54.9**	**$78.0**	**$107.4**	**$57.1**	**$144.1**	**$90.2**	**$89.2**	**$146.5**

Renewable Resource Trust Fund—Fund Condition History

(In Millions)

	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Beginning Balance	$146.5	$205.8	$430.8	$138.3	$157.6	$138.5	$93.7
Revenue/Transfers							
Revenues	154.7	180.0	129.8	75.8	74.1	73.9	37.0
Loans/transfers out	—	—	—	-10.9	-45.0	-46.4	-16.2
Loan repayments in	—	131.8	—	—	—	—	—
Subtotals	($154.7)	($311.8)	($129.8)	($64.9)	($29.1)	($27.5)	($20.8)
Expenditures	$95.4	$86.7	$422.3	$45.7	$48.1	$72.4	$69.8
Ending Balances	**$205.8**	**$430.8**	**$138.3**	**$157.6**	**$138.5**	**$93.7**	**$44.6**

once again is the sales and installation infrastructure in California. But the depth of the recession in California has also served to limit sales growth, and permitting is still a significant barrier.

We believe it would be a mistake to allow the higher rebates to ratchet down in April as scheduled. It will blunt the current market momentum and hinder small wind's ability to contribute to the Governor's distributed generation goal. The current rebates are robust, but as is they are less robust than the rebates available in Oregon, New York, or New Jersey. Our two year request exceeds the lifespan of the current funding mechanism, but DWEA hopes to work with the California legislature to promote extension of the CTC funding underpinning the ERP.

Second, we would like to see the product eligibility criteria tightened up for small wind by embracing the new national certification standards and by giving CEC staff the ability to delist products with poor operational track records. We believe the current listing criteria have been exploited by unscrupulous companies. One currently eligible product, for example, has a CEC rating that is over 2.5 times the total kinetic energy in the wind and approximately 8 times the efficiency of the best reputable small wind products on the market. Also, we believe that it is counterproductive for staff to have no ability to delist products that are failing in the field. Another brand, out of China, for example, has a nearly 100% failure rate but cannot be removed from the eligible products list. These products reflect poorly on our industry and we believe they have no place in the ERP program.

Our recommendation is that product eligibility be tied to certification to AWEA 9.1-2009 by either the Small Wind Certification Council (SWCC) or other Nationally Recognized Test Laboratory (NRTL). Since the standard is new and compliance requires an approximately nine month field test there would need to be a transition period where products in process with SWCC would have provisional eligibility until Dec. 31, 2011. This follows an approach successfully implemented in the UK for their feed-in-tariff scheme and one that a number of other U.S. states are planning to implement. DWEA would be happy to provide specific wording for the ERP Guidebook for the staff's consideration.

The CEC ERP program, which was the first state system benefit charge (CTC in California) funded solar and wind rebate program in the nation, has created the largest single small wind dealership in America and has the potential to create hundreds of new jobs in California over the next few years. We look forward to working with you and your staff to extend the good work of this pioneering program.

Please do not hesitate to contact me at (928) 380-6012 or jjenkins@distributedwind.org or our advocate in Sacramento, Justin Malan with Ecoconsult at (916) 448-1015 or justin@ecoconsult.biz with any questions.

Sincerely,

JJenkins

Jennifer Jenkins

Executive Director

RENEWABLE ENERGY PROGRAM Cumulative Funding and Expenditures as of September 30, 2010						
	New Renewable Facilities[1]	**Emerging Renewables[2,3]**	**Existing Renewable Facilities[4]**	**Consumer Education**	**Customer Credit**	**TOTAL**
Collected Funds[5]	$ 592,893,678	$ 449,087,292	$ 435,666,549	$ 22,665,711	$ 75,638,920	$ 1,575,952,150
Intrafund Reallocations[6]	$ (32,543,992)	$ 177,171,238	$ (106,600,000)	$ -	$ (10,315,829)	$ 27,711,417
Subtotal	**$ 560,349,686**	**$ 626,258,530**	**$ 329,066,549**	**$ 22,665,711**	**$ 65,323,091**	**$ 1,603,663,567**
Disbursements	$ (538,372,746)	$ (433,109,387)	$ (320,592,905)	$ (15,254,328)	$ (65,323,091)	$ (1,372,652,457)
Encumbrances	$ -	$ (45,801,330)	$ -	$ (3,030,574)	$ -	$ (48,831,904)
Loans						
Loan to General Fund per Budget Act of 2002[7]	$ (18,200,000)					$ (18,200,000)
Loan to General Fund per Budget Act of 2008[8]						$ (10,900,000)
Loan to General Fund per Budget Act of 2009[9]						$ (35,000,000)
Loan to Dept. of Fish and Game per SB X8 34[10]						$ (10,000,000)
Appropriations						
Appropriation for PACE Reserve program per SB 77 (2010)[11]						$ (50,000,000)
REP Balances	**$ 3,776,940**	**$ 147,347,813**	**$ 8,473,643**	**$ 4,380,809**	**$ 0**	**$ 58,079,206**

[1]New Renewable Facilities disbursements include $76,690,962 in payments to projects awarded funding through competitive auctions; $412,650,348 of unused SEPs dollars refunded to utilities pursuant to SB 1036, Statutes of 2007; and $49,031,436 in funds collected from the utilities prior to 2002 that became available due to the Energy Commission's cancellation of two project awards, REN-98-017 & 018. The New Renewable Resources Account was eliminated July 1, 2008.

[2]Emerging Renewables disbursements include ERP $407,420,980 and NSHP $25,668,407.

[3]Emerging Renewables encumbrances include ERP $3,055,697 and NSHP $42,745,633.

[4]Existing Renewable Facilities disbursements include $6 million for the Agriculture Biomass-to-Energy Program.

[5]Collected funds include $568,000 from Bear Valley Electric Service.

[6]Intrafund reallocations include $27.711 million from sources outside investor-owned utility collected funds.

[7]$150 million was loaned to the state's General Fund pursuant to the 2002 Budget Act. The General Fund, having remitted $131.8 million in June 2007, has an outstanding principal balance of $18.2 million.

[8]$10.9 million was loaned to the state's General Fund pursuant to the 2008 Budget Act to be repaid no later than June 30, 2013.

[9]$35 million was loaned to the state's General Fund pursuant to 2009 Budget Act to be repaid no later than June 30, 2011.

[10]$10 million was loaned to the Department of Fish and Game pursuant to SB X8 34 to be repaid no later than December 31, 2012.

[11]$50 million was appropriated for the Property Assessed Clean Energy (PACE) Reserve program pursuant to SB 77.

Note: Account balances are committed to meeting legislative mandates as follows: rebates for emerging renewable energy system installations, generation from existing renewable facilities, and consumer education activities.