

DOCKETED	
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Project Title:	Complaint Against the Stockton Port District re: RPS Program Compliance
TN #:	223607
Document Title:	Denial of Staff Motion to Bifurcate
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**Before the Energy Resources Conservation and Development
Commission of the State of California**
1516 Ninth Street, Sacramento, CA 95814
1-800-822-6228 – www.energy.ca.gov

IN THE MATTER OF:

***COMPLAINT AGAINST STOCKTON PORT
DISTRICT FOR NONCOMPLIANCE WITH THE
RENEWABLES PORTFOLIO STANDARD***

Docket No. 18-RPS-01

DENIAL OF STAFF MOTION TO BIFURCATE

Background

On January 8, 2018, the Executive Director of the California Energy Commission (Energy Commission), on behalf of Energy Commission staff (Staff), filed a complaint against the Stockton Port District (Port), alleging noncompliance with the Renewables Portfolio Standard (RPS) Program for the 2011-2013 compliance period (Complaint).¹

Accompanying the Complaint was a motion to bifurcate the proceeding into two phases (Motion to Bifurcate). Specifically, Staff requested the Energy Commission consider mitigating circumstances that may excuse the Port's alleged RPS noncompliance separate, and in advance of, Energy Commission consideration of the alleged RPS noncompliance allegations in the Complaint.

The Port filed a response to the Motion to Bifurcate on January 31, 2018, supporting the Motion to Bifurcate and moving to modify the deadline for the Port's Answer to the Complaint established by California Code of Regulations, Title 20, Division 2 (also referred to as Energy Commission regulations).² In anticipation of the appointment of a Committee at the February 21, 2018 Business Meeting, and under the authority granted him under Title 20, California Code of Regulations section 1203, subdivision (f), Energy Commission Chair Robert B. Weisenmiller ordered that the deadline for filing an Answer to the Complaint be either 1) any such deadline established by the Committee; or 2) March 21, 2018, whichever is later.

¹ The complaint and all other documents filed in this proceeding can be found in the docket for this proceeding at: <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-RPS-01>.

² TN 222406

On February 21, 2018, the Energy Commission appointed a committee of Commissioner Karen Douglas, Presiding Member, and Commissioner David Hochschild, Associate Member, to preside over this proceeding. The Committee held a Committee Conference on March 7, 2018 and took comments on the Motion to Bifurcate from the parties. The parties also provided a jointly-agreed upon schedule.³ On March 9, 2018, the Committee issued a Response to the Motion to Bifurcate and an Order for Additional Information.

The Port timely filed its “Response to Committee Response to Staff Motion to Bifurcate and Order for Additional Information” (Response)⁴ on March 30, 2018. The Port identifies specific actions that it states constitutes either full or substantial compliance.

Discussion

The Committee thanks the Port for its response. In light of the information provided, the Committee has decided to **DENY** Staff’s Motion to Bifurcate. While the Committee is mindful of the public interest in minimizing the resources expended to resolve the Complaint, we believe that the information provided by the Port in its Response merits additional consideration. Specifically, we believe that before we consider mitigating circumstances, it is important to evaluate the extent to which the Port publicly engaged and communicated with its ratepayers in a manner that clearly and transparently identified the actions taken to comply with its RPS responsibilities. To that end, the Committee **ORDERS** the following:

- The Port shall file a declaration on or before June 12, 2018 with evidence that substantiates the factual claims contained in Section II of its Response. The declaration shall be signed under penalty of perjury and all supporting evidence shall be included as exhibits.
- Staff shall notify the Committee on or before June 15, 2018 if it plans to present additional evidence relevant to the Port’s specific factual claims. If Staff plans to present such additional evidence, it must be filed by declaration on or before May 25, 2018. Such declaration shall be subject to the same requirements applicable to the Port’s declaration.
- The Port and Staff shall provide a filing by June 29, 2018 indicating whether evidentiary hearings will be needed or whether the Committee can make factual determinations based on the filed declarations and corresponding evidence. If no evidentiary hearing is requested by the parties, the Committee will provide parties an opportunity to address the issue of whether the evidentiary record establishes a basis for finding substantial or actual compliance.

³ TN 222920

⁴ TN 223100

We anticipate that once we have the ability to make findings about the factual claims identified in the Port's March 30, 2018 Response, we will be able to proceed promptly to the question of whether mitigating circumstances exist, and if so, whether and to the extent they affect any non-compliance.

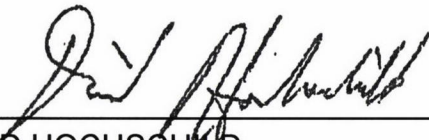
SO ORDERED, on this 29th day of May, 2018.



KAREN DOUGLAS

Commissioner and Presiding Member

Complaint Against Stockton Port District for Noncompliance with the Renewable for
Noncompliance with the Renewable Portfolio Standard Committee Portfolio Standard
Committee



DAVID HOCHSCHILD

Commissioner and Associate Member

Complaint Against Stockton Port District for Noncompliance with the Renewable for
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