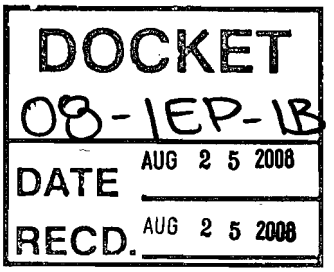
Aug 25, 2009



CALIFORNIA ENERGY COMMISSION
DOCKETS OFFICE, MS-4
1516 NINTH STREET
SACRAMENTO, CA 95814-5512

Joint Committee Workshop
Re: Docket No. 08-IEP-1B

The writer wishes to extend his compliments to the California Energy Commission (CEC) for the workshop and in particular to Ms. Suzanne Koresec for an excellent informative recap. The writer also wishes to apologize to the Commission and the meeting attendees because he was inadvertently called away during the meeting and could not listen to the entire meeting presentation. Undoubtedly transmission is one of the major causes why the RPS program will not meet its goal of 20% renewable energy generation by 2010. In addition as was stated at the meeting by SCE, the prospect of meeting the 33% goal is also in serious jeopardy. However this writer believes that the lack of transmission and/or energy subsidies are not the only major reasons for generation not being built and coming on-line during this time period. The writer will include reasons that based upon his experience and the experiences of other independent power producers have resulted in the inability to raise the capital necessary for construction.

Initially, this writer has some questions to add relative to the reasons presented. While it is readily acknowledged that new and substantial transmission must be built to collect and distribute the large anticipated amounts of generation from wind and solar from some of the more remote areas of the state, there was another bothersome point that was raised at the CEC Workshop on "Feed-In-Tariffs" held on June 30, 2008. During the CPUC presentation entitled "Status of California's Renewable Portfolio Standard" in the presentation it stated that the RPS procurement process is working, that the Commission has approved 95 contracts for 5900 MW for new and existing RPS capacity. The report acknowledges however that Project Development has been slow, that at present only 14 contracts for ~400 MW have come online and RPS generation has not kept pace with overall load growth. If the RPS target is to be met, more than 3,000 additional MW of generation would be needed and that the Commission is seeking answers to issues such as:

– Problem with the procurement process?
– Problem with the project development process?
– How significant are these problems?
– How would a feed-in tariff address these problems?
What challenges associated with implementation and administrative oversight might a feed-in tariff create?
– Could these challenges outweigh the benefits of a feed-in tariff?

Evidently, it appears that the CPUC is beginning to recognize the fact that a problem in meeting renewable energy goals exists.

What is difficult to comprehend however is that why in this time period if the procurement process has been working have perhaps only about 4% of the projects approved by the California Public Utilities Commission (CPUC) come on-line? Why if the procurement process is working is it so difficult to get renewable generation built? The process of project approval is one that is not only lengthy and laborious, it is frightfully expensive and time consuming for all entities involved. Initially after the RFPs have been issued and solicitations presented, the IOUs spend time evaluating the projects submitted. After the initial evaluation, a "Short List" is prepared. This Short List is the list of projects deemed worthy of further evaluation. This short listing among other issues evaluated undoubtedly includes an evaluation of whether or not a selected project has an acceptable chance of being built and coming on-line. After short listing, a negotiation period which sometimes lasts for years is undertaken and hopefully completed. The IOUs have a staff of professional evaluators who review these projects and scrutinize them from every angle including LCBF, technology efficacy and of course the probability of it being built and coming on line. With all of this professional evaluation including the evaluation efforts of Independent Evaluators, still only 4% of the CPUC approved projects have come on-line. As an example, in the 70s and 80s period during the SO2 and SO4 eras, the rate of renewable construction completion was far more successful, a far greater percentage of renewable projects were completed and with less cost, effort and time expended in the evaluation process.

If as the commission alleges the procurement process is working, it is evident the answer to the problem of getting renewable energy facilities built must lie elsewhere. At this point, the writer will re-introduce a reason, an explanation that he has presented before, but one that evidently the Commissions have chosen not to acknowledge, that is the question of

remuneration for renewable energy. The CEC has held a number of workshops and meetings in an attempt to ascertain the reason why the RPS program is languishing and has attempted to obtain a solution. During several of the workshops, presentations were made describing other very successful programs and outlining their method of operation. When one reviews the results of any of these successful renewable energy programs such as the program in Germany two reasons stand out: The Germans and every other successful renewable energy program in Europe recognize that renewable energy is more expensive than conventional energy programs and they are willing to pay for it. The other reason is that procurement and permitting processes are streamlined in order to attract and enhance renewable energy construction.

To illustrate the example, on May 21st 2007 former Commissioner Geesman held an "IEPR Committee Workshop" at the CEC. One of the issues discussed was the practices of the European Community relative to renewable energy. In the Workshop it was stated the European Renewable Energy Program is "On Track", the goals set are being met, everyone is happy with the progress and with the results. In reviewing the transcripts of the meeting it became quite apparent the European Community recognizes the costs associated with the production of renewable energy and is willing to pay the price necessary to obtain it. They recognize that renewable energy is more expensive to produce than fossil fueled energy, hence if renewable energy is wanted it must be payed for. In addition, the transcript stated that financial institutions were encouraged to invest in renewable energy and that permitting issues were being streamlined in order to stimulate renewable construction. A subsequent workshop held at the CEC on June 30, 2008 examined the procurement process currently in use in Germany. The German program features a "Feed-In-Tariff" which in many ways is analogous to the former Standard Offer (SO) programs used in California in the late 1970s and early-middle 1980s. The many advantages of the SO or Feed-In-Tariff programs include:

- Reduced project developer costs, risks, and complexity without increasing ratepayer cost (relative to the cost of viable projects, as opposed to speculative bids, which result in contract failure).
- Reduced utility and regulator administrative burdens.
- Reduced transaction costs. Current complexity hampers the ability for small businesses and small projects to participate.
- Increase the willingness of developers to take on risk in addressing siting, permitting, or other barriers because the reward has a higher degree of certainty than under the current regime.
- Add the possibility of lower overall costs. Currently, lowcost viable projects are allowed to bid up to the MPR, which may act as a price floor, contrary to legislative intent.
- Shift competitive pressure from generators to manufacturers and suppliers of renewable energy generation equipment.
- Reduce the rate of contract failure. Many cost factors can change between a solicitation response and a project's resolution of permitting, siting, interconnection, and equipment procurement. Once projects have progressed to the point where costs become certain, previously signed contracts may become infeasible. Under the current approach, such contracts would fail (or their proponents would seek to renegotiate with the purchasing utility, a practice that would tend to encourage more speculative bidding). For comparable feed-in tariff prices to that of RPS contracts that do succeed, it is possible that a greater number of projects could move forward because the potential for reduced costs under a feed-in tariff regime could leave a project more headroom to absorb costs increases related to potential project delays.

One of the primary barriers to development may have been the inability of the Independent Power Producers (IPPs) to obtain project finance. In too many cases this writer and his associates have been informed by the financial community that within the present system of remuneration for renewable energy, the revenue produced is not worth the risk associated with renewable energy finance. Other reasons commonly stated by the investment community include the cost, time and uncertainties associated with project permitting and obtaining short-listing. This is in addition to the risks associated with renewable energy such as the fuel supply and processing. The investment community states that at present it is necessary to invest a great deal of "pure risk" money without the remuneration to provide it with the level of comfort necessary to encourage investment. In effect, the reward does not warrant the risk.

Overall, the validity of the statement appears to be confirmed by an examination of the prices offered by successful renewable energy programs. Again referring to the German program, the prices offered for renewable energy are satisfactory to induce investment. Further, permitting is becoming "streamlined" to attract and enhance renewable energy construction, the procurement process is based on the Feed-In-Tariff principle, in effect measures are being undertaken to encourage renewable energy construction. When one compares the efforts put forth in a system whereby renewable energy construction is encouraged to the practices currently employed here in California it becomes apparent why the RPS program could be languishing. Yes, transmission is needed to collect and transport the energy generated in the more remote areas of the state, but that is not only an expensive process. Here in California it is also a time consuming process. Yes, the uncertainty of energy subsidies may reduce the quantities of some of the more subsidy reliant energies, but market price adjustments can replace a government subsidy no longer in existence. However an acknowledgment that renewable energy

generation is more expensive than fossil fuel generated energy and the necessity to pay more for it if it is needed and wanted is one of the factors necessary to attract and enhance the development of renewable energy construction.

At present the Market Price Referent or MPR price is one of the primary thresholds for project approval. In California, the MPR structure attempts to establish remuneration based upon among other things the price of natural gas. The MPR price is arrived at through a combination of factors including the cost to construct a facility, however the cost of finance assumed in the MPR is the cost to a super creditworthy borrower, the normal IPP does not normally qualify for this cost of borrowing. In addition, depending upon the technology offered the IPP may have to provide efficacy insurance in order to obtain project finance. When the remuneration for renewable energy from successful programs are compared to California, it becomes more apparent why the successful programs are able to attract renewable project development

It must be understood that in today's market there are many investment opportunities that are more risk averse and that present a far better investment return then does renewable energy with the present remuneration structure. Obviously deep pocket developers (the IOUs, FPL, PPL, etc.) don't have the same financing problems as do the smaller power developers, however historically, the deep pocket developer has been far less likely to undertake the more adventurous (and riskier) energy projects. Participation on the part of state and federal institutions would give the conventional investment community a level of comfort and the confidence that renewable energy development is a worthwhile undertaking. Perhaps a joint venture partnership in a project could be developed such that the conventional lender could finance the portion of a project with which he has intimate familiarity such as the thermal generation, while public institutions could finance the portion of the project such as fuel collection and processing which does not have the same degree of maturation.

As an added thought, does "Reliable Generation" and "As-Generated" generation have the same value in the market place? Is dispatchable energy of more value than as-generated energy? If so, should reliable or dispatchable energy have the same price tag as as-generated energy? Historically, reliable energy has always commanded a higher price than as-generated energy. In the SO (Standard Offer) Contracts, reliable power without exception brought about more revenue than as-generated power. A point of interest, during the days of the SO contracts, reliable energy (biomass for one) used to bring significantly higher revenues than the MPR prices being approved in today's market. Further, Phil Reese chairman of the Biomass Alliance in his many addresses before the CEC outlined the fate of the industry. Many of the biomass operations of the previous decades have been forced out of business by the present prices paid for renewable generation.

In summation, the writer respectfully suggests that in addition to the reasons presented in the Joint Committee Workshop for the apparent inability to bring CPUC approved contracts on-line, both Commissions investigate the pricing disparity between successful programs and the remuneration being offered under the MPR structure. In addition, although the CPUC alleges the present procurement system is working, it may wish to investigate a Feed-In-Tariff program. This type of program could provide the benefits of less cost, complexity and developer risk while reducing the overall length of evaluation time and the uncertainties of the ultimate cost of the energy. The writer wishes to thank the Commission for the opportunity to attend the Workshop by phone and to present these comments.

Sincerely,

/S/

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