



Bernie Orozco  
 Director  
 State Governmental Affairs

Ph. (916) 492-4244  
 Fax (916) 443-2994  
 borozco@sempra.com

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California Energy Commission  
 1516 Ninth Street  
 Sacramento, CA 95814-5512

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**RE: Docket No. 08-IEP-1G and No. 03-RPS-1078 2009 Feed-in Tariffs**

Dear Commissioners:

San Diego Gas & Electric Company (SDG&E) respectfully submits the following comments to the California Energy Commission (CEC) on the recommendations contained in the Second Draft Consultant Report entitled, "California Feed-in Tariff Design and Policy Options" (Draft Report) prepared by KEMA. SDG&E is committed to achieving its Renewable Portfolio Standard (RPS) targets and to increasing the level of renewable energy delivered to its customers in the most cost-effective manner, while maintaining system reliability. While the Draft Report and the previous report, "Exploring Feed-in Tariffs for California" (First Report) contain significant work in laying out the numerous issues and hurdles related to the implementation of feed-in tariffs (FITs), the recommendations in the Draft Report do not sufficiently deal with numerous implementation issues, particularly those related to the size of the utility. SDG&E would recommend that these issues be part of the 2009 IEPR investigation.

The Draft Report outlines six policy path options for FITs and has endorsed policy path 6. Policy path 6 is the full-scale implementation of a FIT offering long-term contracts open to all RPS-eligible resource types, where investor-owned utilities (IOUs) and publically-owned utilities (POUs) would be required to purchase electricity from new renewable energy generators, a "must-take" obligation. The FIT would be initially limited to new eligible renewable projects of 20 MW or less in size, and would be technology-specific, size differentiated and cost based. While the Draft Report endorses policy path 6, it also lists an array of implementation issues that require further consideration. SDG&E concurs with the Draft Report's assessment that additional analysis is needed, especially issues related to the size of the retail provider. SDG&E therefore recommends that the following issues be examined in connection with expanding feed-in tariffs beyond 1.5 MW as part of the 2009 IEPR in addition to the issues outlined in the Draft Report:

- o A cost impact analysis on customers is absent from the Draft Report because the details of the pricing of the FIT have not yet been decided. The recommendation of an open-ended program on IOUs and POUs means that there is no cap to cost exposure similar to the must-take standard offers in California in the 1980s. The First Report noted that this approach failed in Germany because of the disproportionate burden placed on some transmission and distribution companies. The 2009 IEPR should explore whether there

are disproportionate costs imposed on smaller IOUs and POUs by expanding FITs to 20 MW.

- A cost impact analysis for small IOUs and POUs should examine the “all-in costs” of renewable generation, including transmission and integration costs as well as the direct costs of the FITs. In comments to the CPUC on feed-in tariffs, SDG&E noted that its distribution system is different than SCE and PG&E and a must-take FIT for up to 20 MW could potentially impose significant distribution and integration costs on SDG&E customers. Discussion of FITs for generation up to 20 MW in the 2009 IEPR should include consideration of these costs.
- The RPS obligation is on retail providers, yet the feed-in tariff would be placed on transmission and distribution providers (IOUs and POUs). This fact creates an obvious disconnect with the RPS that needs to be further explored. Would FITs placed on the IOU lead to exit costs for customers similar to the costs of the DWR contracts reflected in CRS charges? Or should there be proportional charges for energy service providers and community choice aggregators?
- Further analysis regarding the interaction between the RPS competitive solicitation process and FITs is needed. SDG&E is skeptical that “Goldilocks Pricing” can be accomplished. (Prices not too high and not too low, but just right). In practice, FITs will create windfall profits when the administratively-set price is set too high (higher than the competitive solicitation price). That is, developers will participate in SDG&E solicitations, but then switch to the FIT when the administratively-set price is mistakenly set too high. Since it is an option decision by the developer, the generation developer will only choose the FIT when added profits are there. The developers will simply ignore the price if it does not provide greater profits than the competitive solicitation. This creates a knife-edge effect: no FIT takers at some prices, but a “gold rush” when the FIT is set at a price well above competitive prices. Given that the Draft Report contemplates dozens of prices being set by technology and size, the issue of the interaction with the RPS solicitations needs more discussion than the single paragraph in Chapter 6 as recognized in the Draft Report. This is particularly important for smaller utilities where large changes in resources could occur very quickly with the “gold rush.”
- The incompatibility of FITs and penalties for non-compliance must be considered. Levying penalties on an IOU for project failure when the IOUs have no discretion under this “must take” approach on the projects in their portfolio is neither fair nor effective.
- If the administrative price is set “too high,” should large wind and solar projects be prevented from getting the “gold rush” price by subdividing the large project into smaller 20 MW projects? It appears that about half of the projects responding to the Ontario feed-in tariff were large projects that simply subdivided into 10 MW projects (the size cap).<sup>1</sup> If so, how would that be accomplished?

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<sup>1</sup> <http://wind-works.org/FeedLaws/Canada/OPA%20SOP%20Contracts%20Awarded.xls>

- A “one-size-fits-all” approach may not be appropriate for small IOUs and POUs. The inadequacy of RPS solicitations for procurement of renewables in the 1.5-20 MW is broad brush in the Draft Report and not specific to the size of the IOU and POU or technology. SDG&E has provided comments in prior FIT workshops that small renewable projects other than solar have not had significant issues with participation in its RPS solicitations. The 2009 IEPR should investigate whether RPS solicitations of small IOUs and POUs are better able to manage resource planning issues and cost issues than FITs up to 20 MW for most renewable technologies.
- As stated by Constellation during the December 1 workshop, the RPS program is on the cusp of change. Implementation of the use of tradable renewable energy credits (RECS) from within the west-wide region for RPS compliance will provide additional price transparency that will facilitate investment in renewable resources. The CEC should examine the interaction of FITs with tradable RECs.
- Implications of an open-ended program must be examined further for small IOUs and POUs. Without an overall cap, small utilities face uncertainty in resource planning efforts due to the fact that FITs offer virtually no control over the type or location of the new resources so that little is known about where, whether, and when the new resources will deliver electricity.
- Credit and collateral requirements along with delay damages should be considered in any expanded FIT program. These conditions would include: a bid deposit, development security, and performance assurance in the form of cash, letter of credit, or parent guaranty (depending on the credit worthiness of the generator). While the Draft Report states credit requirements are antithetical to FITs where generators only receive payment for production; this type of measure would provide for more reliable resource planning and protection to utility ratepayers from incurring replacement costs in the event the generators fail to achieve commercial operation or defaults during the delivery term of the agreement.
- As the Draft Report acknowledges, FITs will not address market barriers; FITs are a procurement and contracting tool. FITs will not overcome the major barriers to renewable development in California, which are transmission, siting, and permitting. The Draft Report states that FITs 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. Currently, much of the permitting and siting process does not begin until after a contract is signed. Is it anticipated that all siting and permitting will be done before a FIT contract is signed so it can be online within a couple of years? Will FITs require transmission be in place before a contract is signed? If long lead times are allowed, will projects be allowed to “fail” in order to sign a new contract if the FIT price increases significantly after the contract is signed?
- As the Draft Report states, legislation is likely required. In order to ensure equitable application, a FIT program should be implemented on a statewide basis pursuant to statute that covers all retail providers or utilities in a manner that allows costs to be recovered from all customers on an equitable basis. Further, any FIT legislation should

include complementary policies related to the streamlining of permitting, siting, and transmission development in California.

Generally, the Draft Report also provides a good list of other FIT implementation issues that warrant further examination: price setting; encouraging efficient transmission, distribution, and supply portfolio planning; and legislation. SDG&E appreciates the opportunity to provide these comments and looks forward to working with the CEC and its staff in the 2009 IEPR as it considers how to design the structure of a FIT program for generation up to 20 MWs best suited to facilitate retail providers' ability to achieve RPS compliance in the most cost-effective manner, while maintaining system reliability.

Yours sincerely,

*Bernie Orozco*