

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

Order Instituting Rulemaking Regarding Continued
Implementation of the Public Utility Regulatory
Policies Act and Related Matters.

Rulemaking 18-07-017

**COMMENTS OF THE QUALIFYING FACILITY PARTIES ON
ADMINISTRATIVE LAW JUDGE'S RULING PROVIDING FOR SUPPLEMENTAL
COMMENTS ON CONTRACT DURATION**

November 7, 2019

Michael J. Minkler, General Manager
Calaveras County Water District
120 Toma Court
San Andreas, CA 95249
Telephone: (209) 754-3543
Email: michaelm@ccwd.org

For Calaveras County Water District

Freeman S. Hall, President
Solar Electric Solutions, LLC
11726 San Vicente Blvd., Suite 414
Los Angeles, CA 90049
Telephone: (310) 826-8510
E-Mail: fhall@solarelectricsolutions.com

For Solar Electric Solutions, LLC

Nancy Rader, Executive Director
California Wind Energy Association
1700 Shattuck Ave., #17
Berkeley CA 94709
Telephone: (510) 845-5077 x1
Email: nrader@calwea.org

For California Wind Energy Association

Steven Sarantopoulos, General Manager
Utica Water and Power Authority
1168 Booster Way
Angels Camp, CA 95222
Telephone: (209) 822-9189
E-mail: gm@uticapower.net

For Utica Water and Power Authority

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

Order Instituting Rulemaking Regarding Continued
Implementation of the Public Utility Regulatory
Policies Act and Related Matters.

Rulemaking 18-07-017

**COMMENTS OF THE QUALIFYING FACILITY PARTIES ON
ADMINISTRATIVE LAW JUDGE’S RULING PROVIDING FOR SUPPLEMENTAL
COMMENTS ON CONTRACT DURATION**

I. INTRODUCTION

Pursuant to Ordering Paragraph 2 of the Administrative Law Judge’s Ruling Providing for Supplement Comments on Contract Duration, dated October 22, 2019 (“Ruling”), Calaveras County Water District, the California Wind Energy Association, Solar Electric Solutions, LLC, and Utica Water and Power Authority (hereinafter “Qualifying Facility Parties”) respectfully submit these opening comments on contract duration.

II. COMMENTS

The Joint Proposal put forward by the Investor Owned Utilities and the Qualifying Facility Parties on November 14, 2018, was narrowly focused on remedying the deficiencies in the Commission’s implementation of the Public Utility Regulatory Policies Act of 1978 (“PURPA”) cited in the Northern District Court’s *Winding Creek Solar (WCS)* decision, namely, failure to provide QFs the option to choose energy rates at the time of contract execution or at the time of product delivery. Addressing the Court’s concerns, which did not include contract term, will open the door for the Commission to re-open the ReMAT program.

The Joint Proposal satisfies the *WCS* decision’s stated deficiency by establishing a fixed price based on three-year historical pricing that is simple and transparent. The Qualifying Facility Parties continue to believe that the Joint Proposal represents a reasonable agreement between parties with

differing legal positions that addresses all commercial aspects of a new PURPA contract that is compliant with the *WCS* decision.

The Joint Proposal is also appropriate in light of the considerable uncertainty surrounding PURPA at the present time. While the Ruling notes (at p. 2) that “FERC has found that the term should be long enough to allow QFs reasonable opportunities to attract capital from potential investors,” FERC’s finding is guidance and not binding, and FERC has never mandated a particular contract term length. Moreover, FERC is currently actively considering whether to modify its regulations in a Notice of Proposed Rulemaking, pondering both the need for fixed rates and any specific term length, and the relationship between the two.¹ Meanwhile, the ReMAT program has been closed for two years, causing major and expanding damage to public and private stakeholders that make up the wholesale distributed generation market segment and frustrating California’s policy and environmental objectives.

The Qualifying Facility Parties therefore urge the Commission to adopt the Joint Proposal, which, by resolving the Northern District Court’s concern, will enable the Commission’s ReMAT program to resume. The Commission may deem it an interim decision pending a ruling by FERC on PURPA policies for the future.

III. CONCLUSION

For these reasons, the Joint Facilities Parties urge the Commission to adopt the Joint Proposal, and subsequently to expeditiously take necessary actions to enable the ReMAT program to resume.

///

///

///

¹ FERC NOPR published on October 4, 2019 (see, e.g., Paragraphs 65 and 77).

November 7, 2019

Respectfully submitted,

/s/Michael J. Minkler

Michael J. Minkler, General Manager
Calaveras County Water District
120 Toma Court
San Andreas, CA 95249
Telephone: (209) 754-3543
Email: michaelm@ccwd.org

For Calaveras County Water District

/s/Nancy Rader

Nancy Rader, Executive Director
California Wind Energy Association
1700 Shattuck Ave., #17
Berkeley CA 94709
Telephone: (510) 845-5077 x1
Email: nrader@calwea.org

For California Wind Energy Association

/s/Freeman S. Hall

Freeman S. Hall, President
Solar Electric Solutions, LLC
11726 San Vicente Blvd., Suite 414
Los Angeles, CA 90049
Telephone: (310) 826-8510
E-Mail: fhall@solarelectricsolutions.com

For Solar Electric Solutions, LLC

/s/Steven Sarantopoulos

Steven Sarantopoulos, General Manager
Utica Water and Power Authority
1168 Booster Way
Angels Camp, CA 95222
Telephone: (209) 822-9189
E-mail: gm@uticapower.net

For Utica Water and Power Authority