

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

Order Instituting Rulemaking to Continue  
Implementation and Administration, and Consider  
Further Development of, California Renewables  
Portfolio Standard Program.

Rulemaking 15-02-020  
(Filed February 26, 2015)

**RESPONSE OF THE  
CALIFORNIA WIND ENERGY ASSOCIATION,  
FOUNDATION WINDPOWER, LLC AND  
DISTRIBUTED WIND ENERGY ASSOCIATION  
TO SOLAR ELECTRIC SOLUTIONS, LLC'S  
PETITION FOR MODIFICATION  
OF DECISION 12-05035 AND DECISION 13-05-034**

Steven Sherr  
Vice President, Business Affairs  
Foundation Windpower, LLC  
505 Sansome Street, Suite 450  
San Francisco, California 94111  
Telephone: (415) 515-3404  
Email: [steve.sherr@foundationwindpower.com](mailto:steve.sherr@foundationwindpower.com)

Nancy Rader  
Executive Director  
California Wind Energy Association  
2560 Ninth Street, Suite 213A  
Berkeley, California 94710  
Telephone: (510) 845-5077  
Email: [nrader@calwea.org](mailto:nrader@calwea.org)

Jennifer Jenkins  
Executive Director  
Distributed Wind Energy Association  
1065 Main Avenue, Suite 209  
Durango, CO 81301  
Telephone: (928) 380-6012  
Email: [jjenkins@distributedwind.org](mailto:jjenkins@distributedwind.org)

December 16, 2015

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

Order Instituting Rulemaking to Continue  
Implementation and Administration, and Consider  
Further Development of, California Renewables  
Portfolio Standard Program.

Rulemaking 15-02-020  
(Filed February 26, 2015)

**RESPONSE OF THE  
CALIFORNIA WIND ENERGY ASSOCIATION,  
FOUNDATION WINDPOWER, LLC AND  
DISTRIBUTED WIND ENERGY ASSOCIATION  
TO SOLAR ELECTRIC SOLUTIONS, LLC'S  
PETITION FOR MODIFICATION  
OF DECISION 12-05035 AND DECISION 13-05-034**

**I. INTRODUCTION**

The California Wind Energy Association, Foundation Windpower, LLC and the Distributed Wind Energy Association (collectively, “Responding Parties”) respectfully submit this Response to the Petition of Solar Electric Solutions, LLC (“SES”) requesting the Public Utilities Commission (“the Commission”) modify its Decisions 12-05-035 and 13-05-034 (“Petition”). SES seeks changes in the Renewable Market Adjusting Tariff (“ReMAT,” or “ReMAT Program”) that would benefit small solar developers at the expense of the Commission’s policy priorities lying behind the ReMAT Program. With the exception of its requested change to the ReMAT Program’s pricing mechanism,<sup>1</sup> SES’s requested modifications would impede the ReMAT Program’s effectiveness and purpose.

---

<sup>1</sup> The Responding Parties agree with SES that the ReMAT pricing mechanism is deficient, because five project applicants must be in an IOU’s queue before an increase in the offer price is triggered. When the offer price is below the market price (as it currently is), developers do not seek to participate in the ReMAT Program. The result is that an increase in the ReMAT offer price cannot be triggered, and the price remains artificially suppressed. In addition to the changes proposed by SES, the Responding Parties support the proposal made by Yavi Energy LLC in its Response to the Petition, which would pool the

In particular, SES requests that the Commission re-allocate eighty percent (80%) of the portion of ReMAT capacity currently allocated to as-available non-peaking (“Non-Peaking”) and Baseload product categories to the as-available peaking (“Peaking”) product category. Such a raid on Non-Peaking and Baseload capacity allocations in the ReMAT Program would upend the Commission’s considered approach to the ReMAT Program, which provides for a range of small renewable energy project types. A re-allocation of capacity from the Non-Peaking product category to the Peaking product category is also entirely premature, because only sixty-five percent (65%) of the capacity currently allocated to the Peaking product category is presently subscribed. Further, small wind projects that would be eligible for Non-Peaking ReMAT capacity could soon benefit from several changes to the regulatory landscape that could aid project development, including the elimination the utilities’ historic ban on the sharing of transformers (which would occur if the Commission adopts the Proposed Decision currently pending in this proceeding) and the extension of certain Federal tax incentives for wind projects. Finally, several small wind projects that are currently under development are, or will soon be, far enough along in the development process to participate in the ReMAT Program. It would be illogical to dramatically reduce the allocation for the Non-Peaking product category at the same time that pending regulatory changes could streamline Non-Peaking project development and existing small projects in the development stage are nearing the stage at which they may participate.

The Responding Parties agree with SES that the ReMAT Program’s pricing mechanism artificially prevents increases in the offering price. SES is correct that the ReMAT pricing mechanism should be modified to require a lesser number of projects in the queue in order for

---

number of applicants for each ReMAT category across the three IOUs. The Commission took a similar approach in the Statewide Pricing Queue structure recently approved by the Commission in the Bioenergy Feed-in Tariff, Decision 15-09-004.

price increases to be triggered (though this change should be applied to both Non-Peaking and Peaking product categories).<sup>2</sup> However, should the pricing mechanism be modified as requested, the offering price for Non-Peaking products would be allowed to rise, and the development of such projects would become easier. Again, it would make no sense to reduce the allocation for the Non-Peaking product category while at the same time making several changes that could incentivize and streamline Non-Peaking projects. As it is currently structured, the ReMAT Program incentivizes a diverse range of renewable energy project types, and this incentive structure is consistent with the Commission's larger policy goals favoring a diversity of project types. The Commission should not now abandon this diversified approach at the behest of a single solar developer.

SES further argues that the Commission should modify the ReMAT PPA provided for in D.13-05-034 to increase the required development security deposit from \$20 per kW to \$40 per kW. This doubling of the required security would plainly make it more difficult to develop small renewable energy projects and constrict, rather than increase, the supply of such projects. SES's request for an increase in the security amount is therefore flatly in opposition to the purpose of the ReMAT Program and should be denied.

For the foregoing reasons, explained more completely below, the Responding Parties oppose SES's Petition for the modification of Decisions 12-05-035 and 13-05-034, with the exception of SES's proposal to modify the ReMAT pricing mechanism.

---

<sup>2</sup> See also footnote 1. In addition to the modification called for by SES, responding Parties support the approach advocated for by Yavi Energy LLC in its Response to the Petition.

## II. ARGUMENT

### A. Re-Allocation of ReMAT Capacity From As-Available Non-Peaking Products to As-Available Peaking Products would be In Contravention of the State’s Renewable Energy Policy

The Commission initially allocated the total capacity of the ReMAT program among three product categories: Peaking; Non-Peaking; and Baseload.<sup>3</sup> The Commission took this approach to stimulate the market for each product category “by providing an adequate supply of available capacity to each product type . . .”<sup>4</sup> The Commission re-affirmed this policy approach in D.13-05-034.<sup>5</sup> SES now asks the Commission to raid the portion of capacity allocated to Non-Peaking and Baseload projects, and re-allocate that capacity to Peaking projects. The Commission’s considered approach in segmenting ReMAT capacity across product types should not be abandoned. While the selection of an appropriate resource mix is accomplished under the Renewables Portfolio Standard through a Least Cost, Best Fit analysis, no similar such analysis is provided for in the ReMAT Program. Thus, the Commission’s allocation of ReMAT capacity among the product categories stands as a proxy for an appropriate resource mix. SES’s preferred approach would undermine this balance among resource types.

Further, SES’s request for expansion of Peaking capacity by drastically reducing Non-Peaking and Baseload capacity is at best premature in light of the fact that only sixty-five percent (65%) of the total existing Peaking capacity is subscribed.<sup>6</sup> The fact that the subscription rate for Non-Peaking products in the ReMAT Program is presently lower than the subscription rate for

---

<sup>3</sup> D.12-05-035 at 49.

<sup>4</sup> *Id.*

<sup>5</sup> D.13-05-034 at 11. In re-affirming the allocation among these three product categories, the Commission cited Public Utilities Code section 399.20(d)(2)(C), which requires the Commission to establish a methodology to determine the market price of renewable electricity contracts, considering “[t]he value of different electricity products including baseload, peaking, and as-available electricity.” *Id.*

<sup>6</sup> Petition at Attach. A.

Peaking products is not cause to reduce the allocation to Non-Peaking products, especially when the Re MAT Program's capacity for Peaking projects is far from exhausted.

The lagging subscription rate for Non-Peaking products is in part due to the simple fact that small wind projects face longer lead times than small solar projects. Eligible Non-Peaking projects have also faced challenges due to the fact that utilities have historically blocked small projects from sharing transformers, which has increased development costs.<sup>7</sup> In his recent Proposed Decision in this proceeding, Administrative Law Judge Robert Mason III noted as much, and found that “[u]tilities should allow shared transformers” because “[t]he use of shared facilities can reduce cost . . . .”<sup>8</sup> If the Commission adopts this finding in his Proposed Decision, Non-Peaking projects will become less costly to develop and subscription to the ReMAT program may well increase. Eligible Non-Peaking projects could also be further incentivized if Congress extends certain Federal tax incentives for wind projects, which it is currently considering. The allocation of capacity to Non-Peaking products under the ReMAT Program should not be reduced at this time, when such projects stand to be meaningfully streamlined and further incentivized.

Finally, SES notes that the ReMAT pricing mechanism “has worked to dampen, not stimulate, the [Peaking] market as it has driven the offering price down to a point where developers are having difficulty financing projects, and the current design of the ReMAT program is keeping these prices artificially low.”<sup>9</sup> The Responding Parties agree with SES that the pricing mechanism in the ReMAT Program makes it very difficult for the offering price to increase. In fact, the ReMAT pricing mechanism is working in the same way to keep the offering price for Non-Peaking power artificially low as well, making it difficult for small wind

---

<sup>7</sup> Proposed Decision of ALJ Mason in R.15-02-020 (Nov. 16, 2015) at 105-106, § 11.6.1.

<sup>8</sup> *Id.* at 106.

<sup>9</sup> Petition at 14.

projects to obtain financing. If the Commission were to modify the ReMAT pricing mechanism, the offering price for Non-Peaking projects could more readily rise to reflect market demand, allowing more eligible Non-Peaking projects to succeed. This would be in line with the purpose and policy behind the ReMAT Program, which is to accelerate the development of a portfolio of renewable energy projects across product categories. It would be illogical for the Commission to fix the pricing mechanism that has artificially disincentivized the participation of Non-Peaking projects in the ReMAT Program, while at the same time drastically reducing the ReMAT capacity allocated to Non-Peaking products.

**B. An Increase in the Required Project Development Security Under the ReMAT PPA Would Make it More Difficult to Develop Small Renewable Energy Generating Projects, and so Run Contrary to the Purpose of the ReMAT Program**

On a separate issue, SES requests that the Commission increase the required development security under the ReMAT PPA from \$20 per kW to \$40 per kW. The Responding Parties oppose such a modification to the ReMAT PPA. Increasing the required project development security would make it more difficult to finance projects and raise another roadblock to the development of small renewable projects.

As SES acknowledges, the Commission set the development security level at \$20 per kW in the ReMAT PPA to strike “a reasonable balance” between the competing interests of “discouraging non-viable projects from participating in the program,” “protecting ratepayers in the event projects fail,” and “providing smaller developers with streamlined access to the program.”<sup>10</sup> The Commission struck a reasonable balance in setting the development security level where it did, and SES has offered no compelling evidence or argument that the Commission should upset its considered decision in this regard. Indeed SES has not offered any

---

<sup>10</sup> D.13-05-034 at 58; *see also* Petition at 17-18 (citing same).

empirical evidence in support of its argument that the \$20 per kW development security has become inadequate. SES's conclusory argument that an increase in the security requirement would bolster the program is simply not credible. Such a change would be a step in the wrong direction for the ReMAT Program.

### III. CONCLUSION

For the foregoing reasons, the Commission should deny SES's Petition, with the exception that the Commission should grant SES's request to modify the pricing mechanism of the ReMAT Program for all product category types.

Respectfully submitted,

*/s/ Nancy Rader*

---

Nancy Rader  
Executive Director  
California Wind Energy Association  
2560 Ninth Street, Suite 213A  
Berkeley, California 94710  
Telephone: (510) 845-5077  
Email: nrader@calwea.org

December 16, 2015

*/s/ Steven Sherr*

---

Steven Sherr  
Vice President, Business Affairs  
Foundation Windpower, LLC  
505 Sansome Street, Suite 450  
San Francisco, California 94111  
Telephone: (415) 515-3404  
Email: steve.sherr@foundationwindpower.com

December 16, 2015



*/s/ Jennifer Jenkins* \_\_\_\_\_

Jennifer Jenkins  
Executive Director  
Distributed Wind Energy Association  
1065 Main Avenue, Suite 209  
Durango, CO 81301  
Telephone: (928) 380-6012  
Email: [jjenkins@distributedwind.org](mailto:jjenkins@distributedwind.org)

December 16, 2015

## VERIFICATION

I, Nancy Rader, am the Executive Director of the California Wind Energy Association. I am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing copy of *Response of the California Wind Energy Association, Foundation Windpower, LLC and Distributed Wind Energy Association to Solar Electric Solutions, LLC's Petition for Modification of Decision 12-05035 and Decision 13-05-034* are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 16, 2015 at Berkeley, California.

*/s/ Nancy Rader*

Nancy Rader  
Executive Director, California Wind Energy Association

## VERIFICATION

I, Steven Sherr, am the Vice President of Business Affairs for Foundation Windpower, LLC. I am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing copy of *Response of the California Wind Energy Association, Foundation Windpower, LLC and Distributed Wind Energy Association to Solar Electric Solutions, LLC's Petition for Modification of Decision 12-05035 and Decision 13-05-034* are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 16, 2015 at San Francisco, California.

*/s/ Steven Sherr* \_\_\_\_\_

Steven Sherr  
Vice President, Business Affairs  
Foundation Windpower, LLC

## VERIFICATION

I, Jennifer Jenkins, am the Executive Director of the Distributed Wind Energy Association. I am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing copy of *Response of the California Wind Energy Association, Foundation Windpower, LLC and Distributed Wind Energy Association to Solar Electric Solutions, LLC's Petition for Modification of Decision 12-05035 and Decision 13-05-034* are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 16, 2015 at Durango, Colorado.

/s/ Jennifer Jenkins

Jennifer Jenkins  
Distributed Wind Energy Association