Client Alert.

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California Implements Reverse Auctions for Small Renewable Energy Projects

By Dian M. Grueneich and Corinne Quigley

California is offering another opportunity for renewable energy developers to participate in the state's electricity market. On August 18, the California Public Utilities Commission ("CPUC") adopted rules for the Renewable Auction Mechanism ("RAM") program[1], which enables smaller projects to sell power to the state's largest electric utilities. Developers of renewable energy projects up to 20 megawatts should familiarize themselves with the new rules. To participate in the first RAM auction this fall, developers should also be aware that they will need to have made substantial progress with the California Independent System Operator ("CAISO"), an organization whose processes can be difficult to navigate.

The RAM program was established late last year when the CPUC ordered California's three investor-owned utilities ("IOUs") to procure up to 1,000 megawatts of system-wide renewable distributed generation through a reverse auction using a standard contract. The new rules implement the RAM program by establishing bidding protocols for the auctions and adopting a standard power purchase agreement for each of the IOUs.

To participate in the RAM program, renewable energy sellers submit price bids to the IOUs during the auctions. The IOUs select the projects with the lowest price first. Once a bid is selected, the seller and the IOU execute a standard power purchase agreement with a term of 10, 15, or 20 years. The price and terms are non-negotiable.

New and existing projects from 1 to 20 megawatts are eligible to participate. The seller must demonstrate that it meets certain project viability requirements along with its bid. These include site control, development experience with at least one other project of similar technology and capacity, and commercialized technology.

The RAM program aligns procurement with grid interconnection by requiring that sellers have their interconnection studies from the CAISO in hand before bidding. Sellers must have filed an interconnection application with the CAISO, and they must have completed a System Impact Study or Phase I Interconnection Study or passed the Fast Track screens (which are an option in both the Wholesale Distribution Access Tariff ("WDAT") and the Generator Interconnection Procedures ("GIP")). The CPUC rejected several deliverability and resource adequacy requirements proposed by the IOUs. Sellers are only required to achieve full capacity deliverability status if there is no additional cost to the seller. Transmission network upgrade costs estimated in the interconnection studies are added to the bids for ranking purposes.

The CPUC rejected a utility request for a 6- to 24-month pause to complete interconnection studies of the shortlisted projects in its service area. Nevertheless, the RAM linkage to CAISO activities highlights the increasing importance of CAISO activities for renewable developers and the need to develop workable CAISO interconnection schedules and requirements.

[1] The final rules can be found here: http://docs.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/141795.PDF.

The CPUC's 2010 RAM decision ordered IOUs to provide distribution and transmission maps, showing available capacity down to the substation and circuit level. The August 18 resolution provides additional direction and rejects IOU-proposed confidentiality requirements.

RAM will be a two-year program with auctions held twice per year. The IOUs must close the first auction by **November 15, 2011**, and the second auction by **May 31, 2012**. Projects participating in the RAM program must achieve commercial operation within 18 months of CPUC approval, with one 6-month extension allowed for regulatory delays.

In related news, the CPUC is considering changes to the Self-Generation Incentive Program ("SGIP"). The SGIP provides financial incentives to IOU customers for on-site wind and biogas fuel cells up to 5 megawatts. The CPUC has issued a draft decision to change eligibility criteria for program participation, incentive amounts, payment structures, and other details. The CPUC could vote on the decision at its upcoming September 8, 2011 business meeting.

These recent actions by the CPUC confirm that California is continuing its strong support for renewables, but because program requirements are still evolving, deadlines are tight, and the CAISO is involved, very significant challenges remain for developers.

Morrison & Foerster has extensive experience in every aspect of the procurement, permitting, and financing of renewable energy projects and distributed generation. If you have further questions or need assistance with your energy development project, please contact Dian Grueneich or Corinne Quigley.

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