



SIERRA CLUB
CALIFORNIA

June 24, 2009

The Honorable Felipe Fuentes
Chair, Assembly Utilities and Commerce Committee
State Capitol
Sacramento, CA 95814

Re: SB 14 (Simitian) – Support if Amended

Dear Assemblymember Fuentes and Committee members:

Sierra Club California appreciates the opportunity to provide the committee with our comments and suggested changes on SB 14 as amended on June 23, 2006 and the state's renewable energy program.

Moving to adopt a 33% or higher Renewable Portfolio Standard (RPS) goal this year should be an urgent priority. There is broad consensus within the California Legislature and the Administration that expanding RPS is necessary for meeting AB 32 climate protection goals, for improving air quality, and for reducing reliance on depleting fossil fuel resources.

California once led the world in renewable energy and we need to regain our leadership. The electricity sector's only current target is to achieve a 20% RPS by the end of 2010. This date will soon be upon us, and as yet there is no required course of action for 2011 and beyond. Utility companies are regulated and work on a 10-year planning horizon, meaning that commitments to long-term power supply agreements— lasting as long as 20 years — are already in the works.

At this point, it is obvious that California's renewable energy portfolio standard law needs to upgrade both the targets and the rules under which it operates. Other states have adopted RPS laws and made significant strides in building renewable energy. Doing so here will require significant reforms in the RPS law to remove current regulations that have a built-in bias against renewable energy, and replace these burdensome rules with a regulatory structure that supports the state's goals for clean energy.

There are a number of provisions in SB 14 and the proposed amendments that we like. We especially like the firm requirement to meet the full RPS by 2020, and the requirement that utility companies will need to demonstrate that they have pursued all cost effective distributed generation. However, the following comments are directed toward those topics in the bill where we have particular concerns and/or would like to see further changes.

With those thoughts in mind, we turn our attention to the current version of SB 14.



FISH AND GAME CODE LANGUAGE

Section 1 of SB 14 (Page 9, starting at line 13) includes unnecessary language regarding the Natural Community Conservation (NCCP) Act. The “balancing of project assurances and ecosystem protections” is not the “assurances” language of the NCCP Act.

We request that the author delete lines 16-17 on page 9 of the bill. The author may wish to consider being more specific as to the fact that you want this division to work on renewable energy NCCPs.

Therefore, we suggest the following amendment to this section:

(c) The internal division shall ensure the timely completion of plans pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3) for the development of eligible renewable energy resources; ~~that embody the balancing of project assurances with ecosystem protections~~

TRANSMISSION

Section 10 of SB 14 (Page 19, starting at line 5) adds the requirement that a certificate for construction of new transmission will be approved by the California Public Utilities Commission (CPUC) if found to be “reasonably necessary or appropriate” to facilitate the achievement of the RPS. It then goes on to state that the CPUC will approve an advice letter seeking assurance of cost recovery if the electricity either: 1) is generated within a competitive renewable energy zone (CREZ) and identified by Renewable Energy Transmission Initiative (RETI) and is built in the most cost competitive and least environmentally harmful ways, or 2) is “needed” to deliver renewables to load, with not less than 50% of capacity for eligible renewables and most comply with the greenhouse gas emission performance standard.

Sierra Club California questions why inconsistent criteria are used for the different parts of the transmission approval process. The use of “reasonably necessary or appropriate” provides weak guidance to the CPUC. Approval for new transmission lines should have the same criteria as the CREZ it is supposed to serve. The standard should be that the most cost competitive and the least environmental harmful transmission should be approved.

Sierra Club California recommends that the criteria for transmission planning in SB 14 be amended to follow the “Garamendi Principles.” The Garamendi Principles are findings to SB 2431 (Stats. 1988, ch. 1457), legislation regarding the role of transmission in California’s future development.

In the main part, the Garamendi Principles read:

(b) The Legislature further finds and declares that the construction of new high-voltage transmission lines within new rights-of-way may impose financial hardships and adverse environmental impacts on the state and its residents, so that it is in the interests of the state, through existing licensing processes, to accomplish all of the following:

1. Encourage the use of existing rights-of-way by upgrading existing transmission facilities where technically and economically justifiable.
2. When construction of new transmission lines is required, encourage expansion of existing rights-of-way, when technically and economically feasible.
3. Provide for the creation of new rights-of-way when justified by environmental, technical, or economic reasons, as determined by the appropriate licensing agency.
4. Where there is a need to construct additional transmission, seek agreement among all interested utilities on the efficient use of that capacity.

Sierra Club California recommends that the Committee adopt Garamendi Principles 1-4 in law as the criteria for deciding whether or not state agencies should approve new transmission projects, with one change. We believe that the state should “provide for the creation of new transmission when justified by environmental, technical, AND economic reasons, as determined by the appropriate licensing agency.”

Furthermore, while transmission costs need to be recovered; this should not become an excuse to have “transmission-only” solutions to increasing renewables generation. There needs to be a way to “level the playing field” or even give preference to local power resources, particularly since this is a principle in the loading order that improves efficiency and reliability.

PROCUREMENT PLANS // “LEAST COST/BEST FIT”

Section 13 of SB 14 (starting at page 30, line 22) details how the CPUC shall direct each electrical corporation to prepare a renewable energy procurement plan. This section of law still includes the “least cost” criterion which places renewable contracts directly in competition with natural gas contracts. Thus, even if the Market Price Referent (MPR) system is eliminated, if the “least cost” criterion is not changed, this still may result in a built-in price bias against renewables. “Best fit” requires that individual renewable power supply contracts fit into the dominant energy supply pattern established by existing nuclear, coal, and natural gas generators.

Sierra Club California believes that a transition to a renewable supply system needs to look at how all the power supply and demand elements will fit into the future state of the “clean” electric system. Shifting to major reliance on renewable power — ideally, 33% or more — will require a holistic, “whole system” planning vision and rational design that clears a path for renewables and traditional power sources to work together, rather than shoe-horning clean energy into the existing fossil fuel-based system.

The “least cost” evaluation fails to account for value of different products (peak, intermediate, baseload, intermittent.) For this reason, it is inconsistent with the actual market evaluation system. We recommend that “least cost” be replaced with a better concept such as “optimal value to cost ratio”.

Furthermore the amendments to the bill remove consideration of indirect costs, such as needed transmission investment and integration, cost of procurement, reliability, environmental and economic benefits in the procurement planning process. This is unwarranted and creates a narrow evaluation that never looks at total ratepayer impacts.

The procurement planning process needs to give consideration to the costs related to transmission investment and environmental impacts. Failure to do so will tend to favor central power plants and unfairly discriminate against distributed generation.

SB 14 adds a new section (page 31, starting at line 33) on a minimum margin of procurement above minimum procurement with the requirement set by CPUC and applied equally to all retail sellers. However, this language loses an opportunity to provide reward for compliance.

The language should be modified to include both of the following:

A) Exempt retail sellers so long as they meet RPS target for delivered renewables, or

B) In the case of retail sellers that fall short of RPS targets, replace applying the requirement "equally for all retail sellers" with requiring the CPUC to make an adjustment in the extra procurement according to performance of the retail seller in meeting the RPS.

Modifying the language here would allow a reward for compliant retail sellers, and also provide a more rational planning basis for excess procurement.

UTILITY OWNED GENERATION

Section 15 of SB 14 (page 41, starting at line 16) adds a new section to Section 399.14 of the Public Utilities Code, allowing for an electrical corporation or investor owned utility (IOU) to meet its RPS requirements by owning and operating its own renewable generation. IOUs would be able to apply to CPUC to construct, own and operate renewable energy resource, up to 8.25% of an IOU's retail sales by 2020.

Sierra Club California would accept allowing for utility owned renewable generation provided that there is a contingency upon meeting overall RPS targets. This would provide a profit incentive for meeting entire RPS goal, not just the utility owned part. The CPUC could be given some flexibility in this, but the general guideline we recommend would be a kilowatt-hour procured allows a kilowatt-hour to be owned by the utility.

Sierra Club California agrees with the criteria and conditions set forth for the CPUC to review IOU applications for utility owned renewable generation. In fact, this is a better set of criteria for utility owned renewable generation than what is required for procured RPS. For example, it is important that the criteria introduced here of "value", or even better— "optimize value to cost ratio", replace the inferior overall program requirement merely for "least cost." Sierra Club California suggests that there should be consistent criteria for the procurement of renewables that

follows the best criteria in this and other sections, regardless of whether the generation is owned by an IOU or a third party.

APPROPRIATIONS

Section 31 of SB 14, (Page 68, starting at line 14) makes various appropriations. All these appropriations should be consistent with the best criteria and requirements in other sections of law. For planning purposes there should be a requirement to consider distributed generation and RECs as viable resources for meeting the RPS goal, which is the same requirement made of utilities in the enforcement section of the bill. In this way the planning entities would be helping the retail sellers to meet the RPS requirements while minimizing impediments that are caused by problems with construction of transmission or finding suitable remote sites.

Sierra Club California also makes the following specific comments:

a) appropriation: \$322,000 to the CPUC for transmission planning to facilitate achievement of RPS;

Comment: Goal should be restated to include achieving RPS while minimizing environmental impact

b) appropriation: \$2.5 million CEC staffing for Mojave conservation plan; Fish and Game, BLM, best management practices for solar energy.

Comment: This is a good start, but the requirement should also include optimal siting, not just "management practices". Currently the bill is unclear on what the best management practices mean.

ECONOMY, ENVIRONMENTAL JUSTICE AND GREEN JOBS

We feel that the bill needs strengthening regarding consideration of specifically designing the program for economic benefits, green jobs and benefits to disadvantaged communities.

We note that the section that referred to allowing utilities to propose projects that provide tangible benefits to low-income and minority populations is stricken by amendment 57. Such provisions in RPS law should have been strengthened by requiring them throughout the procurement process.

Union of Concerned Scientist June 24, 2009 letter on Senate 14

Sierra Club California supports the amendments requested by the Union of Concerned Scientists in their June 24, 2009 letter to this committee regarding: cost containment, eliminating escape clauses, compliance flexibility and renewable energy credits.

Conclusion

Sierra Club California appreciates the chance to comment on such an important and vitally needed piece of legislation, and anticipates future chances to further improve its reach and scope. That said, SB 14 represents an important step toward the clean, renewable, low-carbon energy future. We urge your “aye” vote at this time, in order that we may work with you to address the concerns we have raised above. Thank you for your leadership on this complex, crucial process.

Sincerely,

A handwritten signature in black ink that reads "Jim Metropulos". The signature is written in a cursive style with a long, sweeping underline.

Jim Metropulos
Senior Advocate

cc: Senator Simitian