



March 30, 2009

Assemblymember Krekorian
State Capitol
Sacramento, CA 95814

Re: Opposition to AB 64 unless amended

Dear Assemblymember Krekorian,

I regret to inform you that TURN opposes passage of AB 64 unless it is amended. Although we believe that there is much of value in this legislation, and support adopting a 33% RPS target for 2020, AB 64 does not adequately address our concerns relating to the RPS program cost cap and adopts problematic payment provisions for distributed renewable energy generating facilities.

Specifically, we have the following concerns:

- Revisions to the Market Price Referent (MPR) in proposed Public Utilities Code §963(a) are troubling. The language appears to create a benchmark based on the price of a renewable energy rather than continuing the current practice of calculating the long-term fixed prices from a new fossil generation unit. This section then calls for a variety of price enhancements to reflect delivery characteristics and environmental benefits. TURN believes that these changes could result in the creation of a large number of individual pricing benchmarks for various technologies, all of which would be subject to a lengthy implementation process and contentious litigation. Furthermore, these benchmarks would simply be a reflection of the prices paid to renewable generators (boosted by a variety of adders) rather than attempting to capture the additional cost of renewable resources relative to conventional alternatives.
- Section 963(b) proposes that each IOU be obligated to spend an unknown (but potentially large) amount of money above the expected cost of the renewable benchmark to buy renewable resources. If the benchmark is intended to capture the expected price of renewable energy, TURN questions why the IOUs should be directed to pay more than the benchmark. If the benchmark properly captures renewable energy prices and benefits, why is it reasonable to provide additional ratepayer funds? A better approach would be to ensure that all procurement occurs at prices that reflect the actual cost of owning and operating renewable energy projects. TURN is concerned that the AB 64



mechanism would invite sellers to charge prices in excess of their costs because the law specifically allows for payments above the reasonable cost of renewable energy.

- Proposed §985(b) directs IOUs to offer standard tariff rates for distributed renewable energy resources at the benchmark prices identified in §963. Even though the benchmark price specifically takes account of time of delivery and other characteristics of renewable generation, §985(b) directs the CPUC to make another set of price adjustments to reflect the same characteristics. Moreover, it is not clear how non-participating ratepayers can be held “indifferent” when the tariff would make payments at prices well above the market price of electricity, and potentially well-above the least-cost renewable energy options available to achieve RPS targets.

TURN would like to work with the authors to fix these elements of the legislation and looks forward to being able to support a future version of AB 64.

Please feel free to contact us with any questions about our position.

Sincerely,

Matthew Freedman
Staff Attorney
TURN