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**On the Express Terms California Energy Commission's Power Source Disclosure Program**

*Additional submitted attachment is included below.*

February 5, 2016

California Energy Commission  
Dockets Office, MS-4  
Re: Docket No. 2014-OIR-01  
1516 Ninth Street  
Sacramento, California 95814

Re: Comments of Pacific Gas and Electric Company on the Express Terms California Energy Commission's Power Source Disclosure Program

Pacific Gas and Electric Company (PG&E) welcomes this opportunity to provide input on the California Energy Commission's (CEC) proposed modifications to the regulations for its Power Source Disclosure Program (PSDP), posted on December 18, 2015 (Express Terms).

## **I. SUMMARY OF RECOMMENDATIONS**

PG&E strongly supports the CEC's effort to update the regulations governing the PSDP (Regulations), as stated in our July 1, 2015 comments on the Pre-Rulemaking Draft Regulations posted May 14, 2015 (Draft Regulations).<sup>1</sup> This is very important work, as the Power Content Label (PCL) enables Californians to make informed choices about their power supplier. Updating the PSDP to make it consistent with California's energy regulatory requirements will allow the PCL to accomplish its purpose of disclosing "accurate, reliable and simple to understand information on the sources of energy that are used to provide electric services" in California.

PG&E appreciates staff moving forward with the effort to update the PSDP and recognizes that the Express Terms include a number of administrative improvements. However, the Express Terms leave key questions about renewable energy counting unanswered and instead add complexity that would make the PCL less useful to customers. Therefore, PG&E offers the following recommendations to enable consistent PCL disclosures in furtherance of the CEC and the California Public Utilities Commission's joint responsibility to implement California's Renewables Portfolio Standard (RPS):

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<sup>1</sup>/ Joint Utility Comments on the California Energy Commission's Power Source Disclosure Program Pre-Rulemaking Draft Regulations. TN # 76011, July 1, 2015.

1. Limit the PCL to "electricity sources" pursuant to the PSDP statute,<sup>2</sup>
2. Report any retirements of California RPS-eligible unbundled Renewable Energy Credits ("RECs") as a percentage of retail sales in a line item below the PCL table;
3. Require an independent audit of every retail supplier's Power Source Disclosure report by October 1 of each year;
4. Revise references to "certificate number of any WREGIS Certificates" to "WREGIS GU ID";
5. Limit the applicability of the new "non-California eligible renewable" category to only multi-state utilities.

## II. OVERVIEW

As with PG&Es' comments on the Draft Regulations, these recommendations provide the customer with multiple benefits and empower informed decision-making by:

- Ensuring that data is accurately categorized and summarized;
- Maintaining consistency with state law and policy on the contents of the PCL and RPS compliance; and
- Reducing potential customer confusion by ensuring that all entities are reporting information in a consistent manner.

## III. SPECIFIC RECOMMENDATIONS

### 1. Non-Electricity Sources Should Not be Included in the PCL

The lack of clear guidance in the PSDP Regulations on the counting of unbundled RECs<sup>3</sup> has made it challenging for retail electric suppliers to determine whether to include the purchase of unbundled RECs on the PCL and whether the nature of unbundled RECs is being represented correctly in the PCL.

The PCL is used by every retail supplier to disclose "its electricity sources for the previous calendar year." The disclosure is expressed as a percentage of annual sales.<sup>4</sup> Unbundled RECs are not

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<sup>2/</sup> Public Utilities Code Section 398.1 and following. See, in particular, Section 398.4(g). Both subsections (1) and (2) specify requirements for "a retail supplier's disclosure of its electricity sources."

<sup>3/</sup> For the purposes of these comments, "unbundled RECs" refers exclusively to "unbundled renewable energy credits that do not qualify under the criteria of paragraph (1) or (2)" of Public Utilities Code section 399.16(b), which are sometimes referred to as "Portfolio Content Category 3 (PCC3) RECs."

<sup>4/</sup> Regulation Section 1393(b) requires each retail supplier to disclose the fuel mix of each electricity product sold and Section 1391(b) defines "electricity product" as "the electrical energy produced by a generating facility."

part of a retail supplier's sales and they are not an electricity source. They are categorically different from the electricity sources which must be disclosed in the PCL, i.e., specific purchases which are traceable to specific generation sources, or unspecified sources of electricity sold to a retail consumer.<sup>5</sup>

Unbundled RECs are an RPS compliance mechanism. Their inclusion in the PCL is inconsistent with the purpose of the PCL, which is to disclose electricity sources. By introducing a regulatory compliance product as an electricity source, current PCL practice creates inaccuracies. Previously, unbundled REC purchases were known as "REC Only purchases" and were included in the PCL sources as if they were an electricity source, which reduces, proportionally, reported electricity sources to a fraction of actual sales. This is not authorized by the statute, reduces the value of the PCL and confuses the consumer.

PG&E notes that "REC Only" was included as a subcategory of "Eligible Renewable Energy Resources" in the Draft Regulations, but has been excluded from the updated definition in the Express Terms.<sup>6</sup> Although this disqualification of REC Only procurement is fully consistent with PG&E's recommendation, its disqualification is not explicit and stakeholders might assume that unbundled RECs continue to be intermingled with energy deliveries. The Express Terms should be amended to explicitly exclude unbundled REC purchases from the PCL.

The following amendment and addition to the Express Terms is needed to reflect this clarification.

Amend proposed Section 1393 (b) by adding the underlined text as shown:

(b) Pursuant to Section 398.4 of the Public utilities Code, each retail supplier shall disclose to consumers the fuel mix of each electricity product that was sold during the previous calendar year, and separately disclose total California system electricity, using the schedule and format specified in this section. Unbundled renewable energy credits that do not qualify under the criteria of paragraph (1) or (2) of PU Code Section 399.16(b), shall not be included in the fuel mix of any electricity product.

## **2. Unbundled RECs May be Listed to Show Consistency with the RPS**

One of the successes of this comment process has been the re-alignment of the PCL toward consistency with California's RPS statute. Although the PCL—consisting of the iconic pie chart and detailed matrix—should only report the retail supplier's electricity sources, the CEC could allow the retail supplier to state the amount of RPS-eligible unbundled RECs that it has retired during the reporting period (i.e., the previous year). The eligible unbundled RECs could be expressed as a percentage of previous year's retail sales, which is the method of measuring unbundled RECs for

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<sup>5/</sup> Public Utilities Code Section 398.2, subsections (c) and (d).

<sup>6/</sup> "REC Only" was defined in the Pre-Rulemaking Draft Regulations posted May 14, 2015 as a certificate of proof issued through the accounting system established by the Energy Commission pursuant to Section 399.25, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

RPS compliance in the statute.<sup>7</sup> However, recognizing that the subject of the PCL is broader than RPS compliance, there should be no limit on the number of unbundled RECs reported below the line, as long as they are RPS-eligible and the unbundled RECs have been retired for purposes of RPS compliance.

**a. Unbundled RECs Should be Listed Below the PCL**

To recognize a retail seller's procurement of California RPS-eligible unbundled RECs, the PCL template should be modified to allow retail suppliers to indicate their procurement of unbundled RECs in a sentence beneath the table of energy resources. For example:

* Percentages are estimated annually by the California Energy Commission based on the electricity sold to California consumers during the previous year.
** During this reporting period, (name of retail supplier) purchased renewable energy credits totaling __% of its annual sales. Those credits met California's Renewables Portfolio Standard.
*** etc.

**b. RECs Should be Reported in the Year They are Retired to Count Toward RPS Compliance**

Unbundled RECs may be purchased in one year (e.g., 2015), retired the next year (e.g., 2016), but designated for any one of the three years following the initial date of generation for the purpose of RPS compliance.<sup>8</sup> PG&E reiterates its July 1, 2015 recommendation that unbundled REC purchases be included in the power source disclosure in the year the retired REC as designated for RPS compliance purposes. This will ensure that the RECs are not sold and potentially counted by another retail supplier after being counted toward RPS compliance.

The following amendments and additions to the Express Terms are needed to reflect these recommendations:

Amend proposed Section 1393 (d) (3) as shown:

(3) The calculations identified in this section shall be based on net purchases of all specific purchases and unspecified sources of power acquired during the previous calendar year. The inclusion of unbundled REC purchases is limited to RECs retired and designated for the previous calendar year for the purpose of RPS compliance as provided by Public Utilities Code Section 399.16. Calculations shall be made using the information reported to the Energy commission in the retail supplier's annual report as outlined in Section 1394(a)(2)(A)(2).

<sup>7/</sup> PU Code Section 399.16(b)(3).

<sup>8/</sup> PU Code Section 399.21 (a)(7)

Add the following subsection (f) following the currently proposed subsection 1393 (e):

(f) Information in the Power Content Label for the unbundled REC category shall be limited to unbundled REC retirements designated by the retail supplier for the previous calendar year for the purpose of the retail supplier's RPS compliance and limited to unbundled REC retirements meeting the requirements of the portfolio content category defined in PUC Section 399.16 (b)(3).

**c. The Listing of Unbundled RECs Should Indicate that they are California RPS-Eligible**

For ease of understanding how the unbundled RECs contribute toward the retail seller's compliance with California's RPS statute, unbundled RECs should be listed below the PCL according to these provisions:

- Only unbundled RECs that are eligible to count toward California's RPS targets and have been retired in WREGIS during the reporting period may be listed below the PCL.
- The listing should be expressed as a percentage of the retail seller's retail sales, which is how unbundled RECs are counted toward RPS compliance.
- There should be no limit on the number of unbundled RECs listed below the PCL, so long as they have been retired and cannot count toward the RPS target in any future period.
- The listing should state, "During this reporting period, (name of retail supplier) purchased renewable energy credits totaling \_\_\_% of its annual sales. Those credits met California's Renewables Portfolio Standard."

These terms will allow a retail seller to clearly list the total percentage of California RPS-eligible unbundled RECs that it has retired during the past year and promotes customer confidence in the value of information provided with the PCL.

**3. All Retail Suppliers Should Be Required To Have An Independent Audit Completed On their Power Source Disclosure Report by October 1 Of Each Year**

PG&E appreciates that the CEC changed the deadline for submitting the audit identified in Section 1394 (b) (1) to October 1. PG&E continues to recommend that all retail suppliers meet the same level of review and validation through an independent audit. For this reason, Section 1394 (b) (2) should be removed from the Express Terms.

**4. Revise References to “certificate number of any WREGIS Certificates” to “WREGIS GU ID”**

As stated previously in comments dated July 1, 2015, the joint IOUs recommend that all references to “certificate numbers of any WREGIS Certificates” be revised to “WREGIS GU ID,” which is consistent with how suppliers have generally reported this information for the purpose of the PSDP. Requiring the use of WREGIS Certificates would result in a substantially greater compliance burden and would be duplicative of RPS compliance reporting requirements.

**5. Limit Applicability of New “Non-California Eligible Renewable” Category to Only Multi-State Utilities**

The Express Terms require each retail supplier to include a new fuel type category, “non-California eligible renewable” in the PCL. (See Section 1393(d)(1)(F).) This term means “electrical generation from an out-of-state facility that is not certified by the California Renewables Portfolio Standard Program, but that is certified by another state’s Renewables Portfolio Standard.” (Section 1391 (n).)

Including this category on the PCL allows purchases that are explicitly ineligible under the RPS statute to be represented as “renewable” under standards that are irrelevant to California’s consumers. This will lead to confusion among retail customers and will dilute the quality and effectiveness of the PCL. Moreover, verifying the validity of any retail claims associated with this category will be extremely burdensome for the CEC, auditors, and retail suppliers, as it would require obtaining information on programs analogous to California’s RPS from many other states throughout the Western Electricity Coordinating Council.

Based on discussions at the January 6, 2016 CEC staff workshop, it appears this new category is intended to accommodate the needs of multi-state utilities that are procuring non-California eligible renewable products to satisfy their RPS compliance obligations in other states. Multi-state utilities subject to California’s RPS program are defined in Public Utilities Code Section 399.17 (a) (1) (A). Recognizing the unique circumstance of multi-state utilities, PG&E has no concerns with allowing multi-state utilities complying with *other* state’s RPS obligations to include the new non-California eligible renewable category in their power mix, provided these multi-state utilities are actually subject to non-California RPS compliance requirements. However, this category should be unavailable for retail sellers and public entities that are only subject to California’s RPS. Furthermore, the Express Terms should be clarified to state that the resources indicated in this new category will not be eligible to create RECs for use in the PCL.

The following amendment to the Express Terms reflects these recommendations:

Amend proposed Section 1391(n) as shown:

(n) “Non-California eligible renewable” means electrical generation from an out-of-state facility that is not certified by the California Renewables Portfolio Standard Program, but that is certified by another state’s Renewables Portfolio Standard. Such electrical generation may not create renewable energy credits for the purposes of this Article.



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Amend proposed Section 1393(d)(1)(F) as shown:

F. Non-California eligible renewable—applicable only to retail suppliers subject to Public Utilities Code section 399.17(a)(1)(A).

#### **IV. CONCLUSION**

PG&E thanks the CEC for the opportunity to submit these comments on the proposed amendments to the PSDP regulations. PG&E looks forward to continuing to work with the CEC to ensure the successful implementation of these regulations.

Sincerely,

/s/

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Pacific Gas and Electric Company

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