BEFORE THE
CALIFORNIA ENERGY COMMISSION

In the matter of ) Docket No.11-RPS-01
)
Staff Workshop: 33 Percent )
Renewables Portfolio Standard )
Pre-Rulemaking Draft Regulations )
for Publicly Owned Utilities Staff Workshop

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

THURSDAY, MARCH 1, 2012
9:00 A.M.

Reported by:
Kent Odell
APPEARANCES

Commissioners Present:

Carla Peterman

Staff Present: (* via phone)

Gabe Herrera
Lorraine Gonzalez
Angela Gould
Gina Barkolow
Kate Zocchetti
Emily Chisholm

Others Present:

Tony Andreoni, California Municipal Utility Association
Tim Tutt, Sacramento Municipal Utility District
Bill Westerfield, Sacramento Municipal Utility District
James Hendry, San Francisco Public Utilities Commission
Fred Lyn, City of Rancho Cucamonga, also representing
  POUs: Cities of Marino Valley, Victorville,
  Cerritos, and Corona
Jeannette Olko, City of Marino Valley, Cities of Rancho
  Cucamonga, Victorville, Cerritos, and Corona
Gurduran S. Bawa, City of Pasadena Water and Power
Danielle Mills, Center for Energy Efficiency and
  Renewable Technologies (CEERT); also on behalf of
  the Union of Concerned Scientists
George Morrow, Azusa Light and Power
Randy Howard, Los Angeles Department of Water and Power
Susie Berlin, Northern California Power Agency
*Norman Pedersen, Southern California Public Power
  Authority (SCPPA)
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MS. ZOCCHETTI: Good morning, everyone. We're going to go ahead and get started. I'm Kate Zocchetti, I'm the Technical Lead for the RPS Program here at the Energy Commission. I want to welcome you all to our workshop on the publicly-owned electric utilities draft regulations. Thank you very much for those of you who have traveled to Sacramento to the Energy Commission, those of you who are online on our WebEx, and those who are calling in and listening on the phone.

Before we get started, I would like to do a few housekeeping things for you to know about. If you go out these main doors here and go to your left, the restrooms are there. We have a snack bar on the second floor, you just go up the main staircase there, there's coffee and snacks, obviously. If we have an emergency, which we hope we don't, please follow staff's direction and we'll lead you out of the Energy Commission and kitty corner across the street to the park, please follow traffic lights, they will give us a ticket if we run out in our frenzy, so please follow staff's directions, and we hope that doesn't happen.

Before I get started, I would like to introduce Commissioner Carla Peterman and she has agreed to make
some opening remarks. Commissioner Peterman?

COMMISSIONER PETERMAN: Good morning, everyone.

Thank you for being here today, both with us in the room and on the line; it's great to have you. This is an exciting workshop, happy to see these Draft Regs out, and to get your input.

Staff has worked very hard over the last several months to incorporate the views and inputs of various stakeholders in drafting these Regulations. The Commission has also worked closely with the California Air Resources Board and the Public Utilities Commission as we move forward. With the Air Resources Board, we're working on developing an efficient Compliance and Enforcement Program, and with the Public Utilities Commission we're working to make sure that we don't have an unnecessarily fragmented market. Where we may deviate from the PUC or have a difference of opinion, I think that reflects staff's attempt to respect the independence of the POUs and their respective authority.

I think that some of you will think we've gone perhaps not too far past our legislative authority, and some will think we haven't gone far enough. I like to think, though, I think we've struck an appropriate balance to start off with and we welcome your input.

I would like now to thank staff for all the work
they've done on this and I think this will be a very productive workshop. Feel free any time to contact my office going forward if you want to discuss any issues that are raised.

On a personal note, I'll also say today is my one-year anniversary at the Energy Commission and, so, yeah, you can applaud [applause], and so it would be great if after this workshop, during this workshop, you could work out every issue you have on the RPS, that would be a great anniversary present to me. So, with that, thank you in advance for your involvement and I look forward to working with you on this issue going forward.

MS. ZOCCHETTI: Thank you, Commissioner Peterman. Before we launch into an overview of our staff Draft Regulations, I'd like to introduce the staff that has been working diligently on this and other RPS issues.

To my right is Lorraine Gonzalez and, at the table there on the far end, is Angie Gould, who has come back today after a maternity leave. She launched the initial effort to draft these regulations and we welcome her back. And to her right is Gina Barkolow, she leads the RPS Verification process. And Gabe Herrera to her right, he is our Staff Counsel. And Emily Chisholm, who has recently joined our office and is working very hard
with Lorraine on moving these Regulations forward.

Traveling around also is Brian McCollough, who will be collecting -- there he is -- the blue cards from you, so I'll be going over a little bit about how you're going to provide comments to us in a moment. You'll be giving some blue cards to Brian if you want to come up and speak to the group.

So with that, I'd like to go ahead and start with our agenda. We plan to provide a short presentation which is an overview, as I said, of our Draft Regulations. As Commissioner Peterman said, we've been working very hard on these Regulations, but this is our first draft, we don't imagine that we got everything perfect for everyone, and we really appreciate all of you calling us and coming in to meet with us to help us get it right, and we welcome you to continue that.

We're going to cover an overview of the Regulations and then we also have some outstanding issues and questions that we've posed to you in our Workshop Notice. We welcome your comments on that. And then we'll be telling you our next steps moving forward. When we do the public comment part, we'd like you to hold your questions to the end, if you would because, perhaps the next slide will answer them. But when we do get to your comments, we are recording today's presentation and
today's workshop and we'd like you to give your business
card or write out your name for our Court Reporter here,
come on up to the podium to make your comments, and we
won't call you unless you submit a blue card, so try to
summarize what you were going to say very briefly on the
card, write your name so that I can read it, and say your
name.

We're going to go ahead and mute the phones right
now and, when we do take public comments we'd like to
take them first from the audience here at the Energy
Commission, and then we'll go to the WebEx and to ask a
question or to provide a comment on WebEx, you need to
click the little raised hand button, and then lastly
we'll take comments from our phone-in callers.

So this is a summary of what we're going to cover
today. I don't need to read those all to you, but I
wanted to give you a sense of what we are planning to
cover. The Outstanding Issues is a summary of the points
that we raised in our questions and asked you to comment
on. Of course, we're going to accept your oral comments
today, but we also encourage you to submit written
comments.

So, getting into kind of what the Energy
Commission's roles are and have been under the RPS, we've
always had the first two roles, which is to certify
renewable energy resources or facilities as eligible for the RPS, we've done that for the retail sellers for a number of years, and now we'll be doing that for the facilities serving the POUs. We are also tasked by statute to design and implement an accounting system to verify and track RPS procurement. And now we're tasked with implementing Regulations specifying procedures for the publicly-owned electric utilities or POUs. We are, under that task, monitoring compliance with the RPS and, then, we are to refer any violations to the California Air Resources Board.

These slides have a lot of text on them and I'm not going to read them, but you can certainly read them for yourself. By the way, and I should have mentioned, there are handouts on the front table in case any of you missed those, we have copies of the Draft Regulations and copies of our presentation. The presentation will be posted on our website.

So kind of moving into the Qualifying Electricity Products, the statute says that generation under contract before June 2010 shall count in full and if it was eligible under the rules in place when the date of the contract was executed. And the Energy Commission is interpreting the "rules in place" to mean the rules in statute that the Energy Commission has implement in its
RPS Eligibility Guidebooks. And we interpret counting in full to mean that the portfolio content categories don't apply, so that the generation under those contracts does not need to be classified as Category 1, 2, or 3, and so those minimum and maximums would not apply.

For those that are eligible then, but not eligible now, the count in full provision also means that it counts in full, but once that contract expires, it would no longer be eligible. And we'll get into that in more detail.

So there are three ways to qualify for the RPS, this is kind of touching on some of the eligibility issues; again, products procured on or about 2010 and certified of course will be counted as eligible and if they meet our current eligibility requirements.

For facilities with electricity procured before June 2010, there are a couple of way, that if the Governing Board approved that procurement and if it meets our definition of renewable electric generating facility, meaning it meets the current RPS eligibility rules, then it could be RPS certified.

Again, this is talking about the limitations on those contracts, those pre-June 2010 contracts. As it says in statute, you can't amend the contract. The facility does have to be RPS certified. And, again,
count in full's meaning is that procurement contract categories don't apply. From here on out, I'm going to call those "buckets," I think, that's what we all call them and it's a lot less of a mouthful, if you'll allow me.

So -- oh, I need to catch up with myself here -- so going into Bucket 1, in order to be classified as a procurement for Bucket 1, it need to have -- the generating facility needs to have a first point of interconnection to the WECC within the meter boundaries of the California Balancing Authority, which is defined in statute, or it needs to have a first point of interconnection to an electricity distribution system used to serve California customers in the California Balancing Authority, or it needs to be scheduled into a California Balancing Authority without substituting another source, even if it's a renewable source. Lastly, it can have a dynamic transfer agreement.

For Bucket 2, the renewable facility must be located within the WECC and scheduled into a California Balancing Authority, firmed and shaped with substitute energy to produce incremental electricity and be initially procured as bundled electricity, which means the REC and the energy both have to be procured. It has to have a first point of interconnection into the WECC --
the substitute electricity must be located outside of California, that only makes sense. It must be incremental or what we mean by that is not in the POUs portfolio before the firmed and shaped transaction is executed.

The procurement of the substitute resource must be adopted by the POU at the same time, or after the renewable is procured. And for administrative purposes, the Energy Commission has long required that "firmed and shaped," which is not new to us, for the retail sellers, it's always been within the same calendar year and we're applying that going forward so that, within the same calendar year, the renewable resource and the substitute resource both have to have generation dates in the same calendar year.

Bucket 3 is pretty much everything that doesn't meet the criteria of Buckets 1 or 2, including unbundled renewable energy credits and if procurement as initially in 1 or 2, but is hence unbundled, then it becomes in Bucket 3.

So I'd like to ask Lorraine, who is going to come up and go over the remainder of the presentation, then we'll both be available, of course, for questions.

Lorraine Gonzales.

MS. GONZALES: Good morning, everyone. So
Section 3204 of the Draft Regulations, that's Procurement Targets, consistent with the statute that says an average of 20 percent of total retail sales from January 1st, 2011 through December 31st, 2013, that's the first compliance period. And 25 percent of total retail sales must come from eligible renewable energy resources in the last year of the second compliance period ending 2016. Then 33 percent in the last calendar year of the third compliance period ending 2020 and 33 percent for each calendar year thereafter. This section also provides that deficits associated with any compliance period shall not be carried forward into another compliance period.

This next slide is a representation of the statutory requirements for a minimum and maximum procurement for each portfolio content category. The statute requires that procurement from Category 1 must be at least 50 percent in 2013, 65 percent in 2016, and 75 percent in 2020. Maximum procurement for Category 3 must be at least -- must be at 25 percent in 2013, 15 percent in 2016, and 10 percent in 2020. The remainder of the procurement can fall into Category 2.

Section 3204 also addresses reasonable progress. The Draft Regulations provide two ways to demonstrate reasonable progress was made at the end of each compliance period, the first method is a qualitative
demonstration where the POU can provide plans to the Energy Commission laying out steps that will be taken in the upcoming year to meet targets. The second option to demonstrate reasonable progress would be to adopt a linear trend for meeting procurement targets and a demonstration that the POU had increased procurement by at least 1.5 percent in each year of the second compliance period, and two percent in each year of the third compliance period. This demonstration would be deemed reasonable progress.

Section 3205 of the Regulations addresses procurement and enforcement plans adopted by the POUs in order to ensure compliance with all RPS requirements. The Draft Regulations require all POUs to submit their most recent RPS procurement plan at the beginning of each year, starting in 2013. And additionally, the statute requires enforcement plans to be adopted by January 1st, 2012. If these enforcement plans need to be revised in light of the requirements of these regulations, a revised enforcement plan can be submitted 90 days after finalization of these requirements. The statute allows for POUs to adopt certain measures to address RPS plans, and so the draft regulations provide some guidance in these areas.

So here we have excess procurement, and for
excess procurement the accumulation of excess may begin
January 1st, 2011, however, procurement from Category 3
and from contracts of less than 10 years cannot be
counted as excess.

The Regulations also address delay of timely
compliance and cost limitations, which the statute
requires must be consistent with rules that the CPUC will
develop for retail sellers, and this section also
addresses portfolio content category requirement
reductions in accordance with PUC Section 39916.

Section 3207 of the Regulations requires that the
POUs report to the Energy Commission on an annual basis
by June 1st of every year. Additionally, a compliance
report detailing total procurement and portfolio content
category classification will be due at the end of each
compliance period. It will be due June 1st in 2014,
2017, and 2021, and then each year thereafter, with the
expectation that, after 2020, the annual report and the
compliance report will be combined into one annual
report. Future editions of the RPS Guidebook will detail
the process for verification of this information, but
these reports will be used to determine compliance.

So I just wanted to take a couple minutes to
outline the verification process that we currently use, a
few things that the Energy Commission staff will explore
in verifying reports: RPS certification, sufficient
generation reported from each facility, conflicting data
from other states and from the voluntary market, multi-
fuel requirements; and a few new things that will be
taken into consideration after the passage of these
regulations, the facilities -- the facility's eligibility
date, portfolio content categories, and procurement
requirements.

Staff is currently verifying 2008 through 2010
RPS data and is working toward a workshop in the spring
for that verification report, with the draft report in
the summer or the fall, and a final report by the end of
the year. So if it was determined that a POU did not
meet its RPS requirements, the Energy Commission will use
the process in Section 1240 to file a complaint and
Section 1240 states, in summary, that no complaint for
the failure of a POU to meet an RPS requirement may be
filed by any person or entity, except Energy Commission
staff. A POU shall file an answer to any complaint made
against it with the Energy Commission's Chief Counsel
within 45 calendar days, then the Energy Commission staff
may file a response to the POUs' answer, a hearing shall
be scheduled to commence no sooner than 30 days after the
filing of staff's response, and any decision issued by
the full Energy Commission shall be a final decision.
After that, the Energy Commission will forward a Notice of Violation to the ARB for their determination of penalties.

There are a few corrections that we would like to point out in the Draft Regulations. Section 3204(a)(8), there is a reference to Section 3204(d) which should actually be 3204(e), and Section 3206(a)(1)(D), we would like to revise to be read "POUs may access procurement in a given period only if the POU satisfies the following criteria." Also, the years in the first equation should have been 2011, 2012, and 2013, rather than 2014, 2015, and 2016.

So we wanted to release these Draft Regulations to the public to get stakeholder input and feedback from all of you, but there are still a few outstanding questions we would like your input on, so I'm going to quickly read through these questions and the topic of consistency should be Energy Commission determine reasonableness for cost limitations and delay of timely compliance based on the structure to be determined for retail sellers, and rules for excess procurement for POUs should also be consistent with excess procurement rules for retail sellers.

Some timing and seams issues -- most electricity products be retired in the same compliance period as when
they are procured to be used for compliance, and is there any reason why RECs generated before January 1st, 2011 could be used for the first compliance period.

Under Exemptions, are there any additional alternatives that are available and that the Energy Commission should consider to limit the burden on very small POUs? And under Non-Compliance, how should late reporting, failure to report, or late submittal of an approved enforcement plan, or a procurement plan, be included in findings of RPS compliance for a POU? And for enforcement plans, is 90 days after the effective date of the 33 percent regulations -- RPS Regulations -- a reasonable amount of time for a POU to adjust an enforcement plan to comply with the provisions of these regulations?

A couple last questions for Enforcement: Should other individuals or entities be allowed to file a complaint against a POU for failing to comply with the Regulations? And if the Energy Commission initiates a public proceeding to consider a staff complaint against a POU, should other individuals or entities be allowed to intervene or otherwise be granted party status in the proceeding?

A quick overview of Next Steps. Comments are due on these Draft Regulations March 15th, 2012, not 2011 as
it is stated in the Notice, and then the Energy
Commission will incorporate comments into a final draft
and hope to submit a rulemaking package to Office of
Administrative Law in April 2012. A formal 45-day public
comment period will follow that and that would be between
April and June of 2012, and then a public hearing will
follow the public comment period in June 2012 with the
hope to adopt these Final Regulations by the Energy
Commission in August.

Of course, if you have any questions or would
like to meet with us on any topic, staff is always
available and this is contact information for Kate and
myself.

MS. ZOCCHETTI: Thanks, Lorraine. So that
concludes our overview of the Regulations. I'm sure many
of you want to share your thoughts with us. Brian, if
you wouldn't mind bringing up the blue cards and, as
folks provide their comments, and if that inspires you to
comment, as well, feel free to do so. And if you'd like
to comment more than once, that's fine as well. We'll
kind of exhaust the comments in the room and then we'll
turn to the folks outside the Energy Commission.

While Brian is doing that, I'd like to thank
another staff member that I neglected to introduce
before, Teresa Daniels is manning the WebEx and I
So again, as a reminder, please give your business card or write out your name on a little piece of paper for our Court Reporter. First, I'd like to invite up to the podium Tony Andreoni from CMUA.

MR. ANDREONI: Thank you for the opportunity and I also want to thank the CEC staff for working so diligently on putting out the Draft Rule back on February 17th. And just for the record, my name is Tony Andreoni, I'm with California Municipal Utility Association. I'm the Director of Regulatory Affairs. And also just for the record, we're a statewide organization of local public agencies that provide water, gas, electric service, to California Consumers. Our membership includes over 40 Publicly-Owned Electric Utilities, or POUs, and provide electricity to about a quarter of all Californians. We are definitely excited to move forward and continue the dialogue.

I thought I would start off before getting into some of the specific questions that we have on the actual draft rule, is focus a little bit on the process, and you kind of talked a little bit about this in your presentation, but so far the process actually began almost last summer, I believe, was the time where you actually had a workshop; I recall that we had a number of...
work group meetings shortly after that with POUs, which I
thought was very helpful, there was a nice open dialogue
to provide some input on the process. I think we also,
and other folks, provided comments on some of the
documents that you provided. And you also had a white
paper out that provided a webinar to give us and others
opportunity to kind of get an idea of where CEC was
heading. I think that process kind of stopped around
November, late October time frame, and the Rule itself
was being developed, and then now we kind of fast forward
to February and we were actually able to see the Draft
Rule and provide comments. It's kind of a little
challenging when you start talking about a group our size
getting comments together in a short time frame such as a
week and a half. I believe the deadline was repeated for
written comments to be on March 15th. So we are a little
cconcerned as an organization that, as you start moving
forward and creating such a rule of this magnitude that
affects to many members statewide, that the staff
cconsider looking at little bit closer, perhaps providing
a little bit more dialogue with working group meetings
like you've done in the past, and start allowing a little
more dialogue for Q&A, and I think that would certainly
help us and help you at the same time try to move forward
in the iterations of the Rule itself.
We also would suggest, if it's possible, to go a little bit beyond the March 15th deadline on the written comments, which we understand would allow us an opportunity to provide written comments on the Draft Rule, but at the same time, for what we don't respond to or provide today on Attachment A questions, it would also give us time to try to integrate where we can. But I do think there needs to be a little bit more dialogue, perhaps here today, perhaps some of the additional members that we have that are going to speak will go over a few of those questions, but I do believe there are a few more questions to ask to try to get at what those responses may mean. And that goes without saying -- actually, before I go to my next statement, I'm just going to throw out a date, you guys can think about it, March 30th, but if there's another date that you have in mind, or if it just can't be done, let us know, we would like to have that dialogue. But we think it is important to spend a little bit more time putting an effort into this Rule so it can move forward a lot more smoothly.

Getting to the next portion which is Attachment B, Attachment B was also part of the Notice, and Attachment B is really getting at focusing on the economic impact that is required by you all as you move forward in putting this Rule together. A lot of those
questions, I think, have a lot more questions to be asked, a number of our members would need significant more time. Should you decide to keep a March 15th deadline for all responses in writing, I think it would be great to have additional dialogue, maybe even meeting with our members individually, if needed, to try to get at responding to those.

And I recall going back to a rule that no longer exists on the books, that renewable electricity standard that ARB worked on, CEC worked very closely in that process, as well as CAISO, CPUC with ARB. There were surveys done that kind of aligned some of the questions that you were asking, I know time was taken to try to get that information to assess what the overall economic impact would be on our POUs, especially the medium and smaller POUs, and I think that's important to continue down that dialogue, to just throw out some questions and, as a good start, I just think it would be great to have additional dialogue in that area as you go through that very important analysis that could have an effect on the overall cost to our members, as well as the potential of cost limitation that is going to be integrated into this overall rule. And unfortunately there's really no one-size-fits-all in this case, we have members that are large and members that are very small in this arena.
So with that, there were a list of questions that I've kind of set aside to maybe throw out at you all, and I'm not sure if this is the time if you want to go through some of these questions and provide some responses, or if not, is it okay to ask a few? Okay.

So what I'll do is start with -- and actually, some of your presentation did answer some of our questions and we've had some good dialogue over the phone. But one of the first questions is how reasonable progress will be dealt with, within what you're describing in the rule. We understand that there are flexible compliance that may be also thrown into this, so we just want to get a view from you on how you see and view reasonable progress as we're going through the current draft. So I'm not sure if you want to answer that now? Should I go through questions? Or lay them out and then answer? How would you like to do that?

MR. HERRERA: Thank you, Tony. This is Gabe Herrera with the Commission's Legal Office. You know, I think that's fine if you ask question, it might spur other questions from folks in the audience. It is on -- I'll speak louder. I apologize for that. Gabe Herrera with the Energy Commission's Legal Office. So as Kate or Lorraine pointed out, there's two options for demonstrating reasonable progress, one is kind of a
quantitative approach where the POU needs to demonstrate
that, to procure a certain amount of renewable energy,
each of the intervening years of the compliance period
and the other approach, which was an approach I think was
adopted, recognizing, at least from what we've heard from
some of the POU representatives, that because procurement
tends to be a little bit more lumpier, some POUs relative
to, say, how the IOUs do things, that process would be
more of kind of a qualitative analysis to demonstrate
what efforts the POU took to make reasonable progress in
the intervening years. But the Energy Commission's
regulations, at least the way they're set up now, would
evaluate compliance with the procurement requirements in
the last year of the compliance period. So I'm not sure
if that's helpful, Tony?

MR. ANDREONI: So you're looking basically at an
option focusing on the last year of compliance, basically
a true-up at that point?

MR. HERRERA: That's right. And the way at least
we envision enforcement action or compliance is that the
POUs would have an obligation to comply with the
procurement requirements in that last year, it would be
demonstrated in that last year, but they also have an
obligation in each of the intervening years of the
compliance period to demonstrate that they've made
reasonable progress. So that might be easier to show for a POU that had taken the kind of qualitative approach and showed that they procured, you know, the minimum, 21.5 percent, for example, at the end of the year 2014. And then, for those facilities that -- or those POUs that could not demonstrate that, but had tried, then we would expect some sort of written submission, some sort of demonstration that they had taken reasonable efforts, but nevertheless could not procure additional resources in the intervening years. I mean, we would be interested in learning whether that option is something that is really viable, whether the more qualitative approach is better.

MR. ANDREONI: I think you may hear from a few others today, but I do believe flexibility, since there isn't a one-size-fits-all in many of the members to be able to do this and, you know, provide a number of options to be able to calculate and look at what reasonable progress is, as well as meeting the requirements over the various periods that we have. Obviously, we're in one right now.

MR. HERRERA: Right. I think what would be helpful, too, would be to get feedback from the POUs on what type of documentation they could provide to meet this demonstration. I mean, we don't know the universe out there, I don't know how each of the POUs conduct
their business, but it would be helpful particularly if somebody like CMUA was able to get together with us and provide that kind of documentation, or a list of those kinds of issues, it would be important for us to kind of assess and determine whether reasonable progress had been demonstrated.

MR. ANDREONI: Okay, well, I think that's certainly something that we would like to have additional dialogue on and try to figure out what will work best for our members and perhaps have some of that either through a working group meeting; obviously, we won't be able to have that dialogue necessarily today, but I think it's something that definitely needs to be looked at as we move forward. We actually had a laundry list of questions, I know we'd been able to talk over some of them on the phone and I'm not sure if we're going to be able to get to all the answers today, but you know, being able to answer those questions and allowing us to be able to go back and work with our group to get additional responses, that would be great, so we do encourage that. Some of the other questions, I'll go ahead and save for a later dialogue, to be able to listen to what some of the other folks that come up and describe, but I do believe, as we get into these discussions, the more we can have a Q&A session that allows us to better
understand and get to the responses, and provide that information to you in writing, I think the better everybody will be.

Setting everything aside, I think the timeline that you're on, the fact that you're still looking for finalization in June, is there a possibility that, as you start having additional dialogue that there will be more time given, given the fact of where we are today and the fact this is the first draft rule that anybody has seen, do you have an idea how tight your timeline is at this point and having this in place?

MR. HERRERA: So let me just speak for Lorraine. I think the schedule that they discussion in the presentation is where we are right now, I mean, that's what the decision makers here at the Energy Commission have kind of put out there for us to follow. If you think, or any of the other POU representatives think, that you need additional time to respond, then, you know, indicate that in your comments to the Energy Commission because we want to hear it and obviously the statute, you know, required the adoption of these Regs --

MR. ANDREONI: Last year.

MR. HERRERA: -- last year, so there's no way we could comply with that, but again, if you have comments and you think we need additional time, then we encourage
you to indicate so in your comments to us.

    MR. ANDREONI:  Okay, and we are today and the
first shot hopefully we'll get through the 30th if that's
a possible scenario for written comments, but beyond
that, I would encourage again if we can do some
additional working group meetings and try to hammer out
exact language changes that we could suggest, and also
allow you to kind of get a better feel for answering
those Attachment B questions, that would be very useful
to our members.  Thank you.

    MS. GONZALEZ:  Great suggestion.  Thank you,
Tony.

    MS. ZOCCHETTI:  Thank you, Tony.  I think
everyone should assume that we will definitely continue
to be meeting with the POU and the POU organizations.  I
think the best way to manage the time today, although we
don’t have an end time, so this is really your workshop,
but I appreciate, Tony, providing an opportunity for
others to speak and perhaps some questions will be
answered.  I think what we'll see is that there will
probably be some issues that are of concern to many, and
so I think that would be a good way for us to kind of
highlight those issues for ourselves, and then invite
another meeting like you suggest, or a conference call,
or a Webinar or something like we've done in the past, to
kind of flesh out those issues and help us get it right.

I want to also remind everyone that, once we do
move to OAL, there is that public comment period and
that's a formal process wherein we must provide comments
in writing -- I'm sorry -- replies to your comments. So
that will be another opportunity for you to comment, but
we'd like to work with you before that happens to get
closer. Did you want to add something? Okay, next up,
Tim Tutt from SMUD.

MR. TUTT: Good morning, Kate and everybody.

Welcome back, Angie. As Kate said, I'm Tim Tutt from
SMUD and I want to reiterate what Tony said, that we
appreciate all the hard work of the staff, and Angie
probably had the hardest job, actually. I want to make
several points, I guess. And the first is, we appreciate
you asking the question about the timing and seams issues
in the release, we think that's a very important thing to
consider. The Public Utilities did have RPS programs in
place before this law and, in many cases, in most cases,
we're complying with their own programs, and now we have
a situation where some of us, for example, SMUD actually
complied well enough that we met 20 percent by 2010, we
had surplus energy, extra energy that we would have, in
going forward in our own program, we would have counted
that surplus energy and carried it forward, and we think
that you can do that in the current law as you consider
the timing and the seams, and allow that early action to
move into the new RPS; if you don't, you are effectively
discouraging early action and I don't think -- I think
that disincentive to early action is not something that
you want to have in place.

What I would suggest is that you reinterpret what
it means in the statute, that historical energy,
count in full. Right now, you're giving a fairly, I
think, limited definition to that term, but to me,
"count in full" would mean that, if it hasn't been
counted for the RPS in the past, it should be counted for
the RPS in the future. So I think that's a way to hook
into bringing that surplus energy into the new RPS.

Secondly, I would encourage that you revisit your
treatment of compliance periods here. The structure
where you have only compliance for the last year of the
compliance period, I think, leads to lots of issues and
complexity, it's must simpler to follow what the CPUC
did, at least in this case, and have a compliance period
wide compliance structure. That way, it conforms with
your excess procurement calculations very clearly and
easily, and I think that you can actually get rid of the
reasonable progress requirements. The statute doesn't
require reasonable progress, it requires sufficient
energy in the intervening years to demonstrate reasonable progress. You set of the compliance periods so that you have that energy incorporated in what's meant for compliance, then by definition you're making reasonable progress in those intervening years. It makes everything just simpler and there's fewer kind of things that you have to worry about and that we have to worry about it if you do it that way.

Another issue I think with those structures, the structures that you have, is we could be in a situation as POUs where we do have procurement in those intervening years sufficient to demonstrate your quantitative reasonable progress potentially, but end up then calculating excess procurement by your calculation, and not actually being in compliance in the final year. So we could be in a situation effectively where we say we have excess procurement for the compliance period, but we're not in compliance because we don't have 25 percent in that single year. That is confusing to the market and to us. We could also be in a situation where we're well over complying in that final year, but don't meet the definition of excess procurement that you have, the quantitative definition, maybe we haven't taken the qualitative side, we don't meet the quantitative definition and so we don't have potentially excess
procurement because we haven't done the -- you know, the
procurement happened in the final year, not in the
intervening years. You need to have a structure which
reflects that I think the Legislature intended to set up
here, which is compliance period wide compliance, not
annual compliance, which is what your structure is moving
towards.

I think another issue is your treatment of
unbundled RECs, and the Category 1 vs. Category 3
resources. The way the law reads, to us, it does not say
that all unbundled RECs are in Category 3, it defines
Category 1 with specific requirements, Category 2 with
specific requirements, and there's a lot of generation
that will meet those requirements, even if the energy
from that is unbundled subsequently, or even as it
happens. For example, behind the meter distributed
generation meets all the requirements of Category 1, and
yet the way the structure is set up, that will be treated
as a Category 3 resource. I think that's problematic for
a variety of reasons, the first of which is that we are
also in this state embarking on a path to try to achieve
up to 12,000 megawatts of distributed generation. The
last thing we need to do as we try to figure out if
that's feasible and how to do that is to put barriers in
the way and to put distributed generation. So that's
something that I think you would tend to want to change.

Also, the statute does not treat Category 3 resources in terms of counting for carryover the way you have it in the Regulation, the words are different than for less than 10-year contracts, so I understand that it's possible to interpret it the way you have, but the implication of -- well, actually, both of those concepts in the law for carryover is that it provides -- in effect, I think it has backfired in a sense because, effectively, if those resources are subtracted from your calculations before you can count excess procurement for carryover, what entities will have an incentive to do is to reduce -- if they have those resources in their portfolio, they'll have an incentive to reduce their procurement so that they don't lose the excess that they otherwise would have going forward; in other words, if I've got Category 3 resources in less than 10-year contracts in my portfolio, I'm only going to procure enough of other resources so that I don't have any excess procurement because, if I go beyond, then I lose it. I lose the value of it. That's, I think, not what -- I think the intent of the drafters there ended up not -- it's not going to work in practice.

Another issue, I think, is the annual reporting that you have incorporated in the Regulations. We're
talking about a compliance period wide information here
and you guys have done -- you get information from POUs
on resource plans every two years. I understand the need
for perhaps an initial procurement plan, but I think,
because of the disparity of sizes in POUs, you don't need
to have them coming back to you ever year and saying,
"This is how we're doing." Look at it as a compliance
period report, if I may.

If there are things that need to be handled
annually, or even biannually, it can happen through the
IEPR process, but you don't need it in regulations to say
there are annual requirements for reporting for POUs.
One of your questions was what about the administrative
cost of this to the POUs, this is one way of reflecting,
particularly for the really small POUs, and do they want
to be providing you with an annual report every year?
Perhaps not.

I think I'll stop there. I would suggest that in
the Regulations, the way you've drafted the Category
implementation limitations, it appears that it doesn't
reflect grandfathered resources there, it kind of says
all procurement in the compliance period has to meet
these limitations, it's not all procurement in the
compliance period, it's only the procurement from
contracts after June 1st, 2010 that has to meet those
And then, finally, I wanted to just second Tony's comment on sort of the process here. We did appreciate the beginning of the process where we had the focus groups and the concept outline and the discussion, things did seem to go kind of dark there for a while; now we have the Draft Regulations, we're certainly happy to have them and happy to comment on them, but it would be very nice if there was a bit more back and forth as those are developed further before the OAL process. It's the kind of process that I think your staff has taken off and on building standards and appliance standards, you know, working with the stakeholders saying, "What do you think of this language or this concept," before it officially comes out. It's the kind of process that we've often used at the ARB, and I would encourage you to think a little bit more about adopting it here. Thank you.

MS. ZOCCHETTI: This is Kate, Zocchetti. Thank you, Tim. I appreciate you pointing out -- I think that is an error where we said "all procurement," I don't think that's our intention. So thank you for pointing that out, as well as your other comments.

So I would like to invite your colleague, Bill Westerfield. He is next.

MR. WESTERFIELD: Thank you, Kate. Good morning,
everyone, and appreciate all your hard work. I would
like to echo the same comments that Tim made, you all
have done an awful lot to give us a lot constructive to
work with, and so we appreciate all your hard work. And,
Angie, welcome back to the frying pan.

I would like to make a few additional points that
Tim made on a variety of issues. Frankly, I would hope
we could get to a point today where we could actually
have a dialogue on particular issues so that various
people can weigh in on the same subject, instead of
having a whole bunch of people talk about subjects in
sequence; maybe we can get to that later in the morning.
But I will make some remarks for the record.

On the seams issue that Tim had mentioned about
RECs accruing prior to 2011, I’d like to also make the
point that this was renewable energy that many POUs and
certainly SMUD procured under law that was valid and in
effect at the time. And SBX2 1 does not repudiate or
invalidate that procurement, in fact, it builds on that
procurement and, I think, assumes those levels of
procurement. So I think to take an interpretation of the
statute that, in effect, discredits that procurement is
not putting forward the State policy, which is achieving
long term goals of a sustainable level of renewable
energy. The law is actually silent on the issue of pre-
2011 procurement, and I think it would be bad policy to assume that the law does not count that kind of procurement.

We recognize there are legitimate issues around what is excess procurement from the Section 387 Programs, but I think those issues could be worked out and in a way that would further the State policies of sustainable renewable developments for California, so I'd like to make that point.

Also on the issue of reasonable progress, I'd like to just bring an additional idea about the enforcement of that standard. I think it would -- I understand that the Energy Commission is setting forth that as an additional compliance requirement, in addition to the target years at the end of the three-year periods; I think setting it up as an additional compliance requirement would be messy to enforce. We've got a fairly qualitative standard that may take a while for staff to determine that a POU is not, in fact, in compliance with that standard, and so by the time that gets evaluated and by the time an NOV could be issued, after a determination that, in fact, that standard has not been met, then it might be a year or two later and you're in the second or third year of the compliance period and then it seems like it's sort of irrelevant to
the situation to pursue some enforcement action several years later that could be really irrelevant to the goal of achieving that compliance within that compliance period. And moreover, if you were to go down that route and decide, heck, in year one that the POU hadn't been doing what it needed to do and, then, in year 3 the POU has actually met its targets for that compliance period, it's going to look a bit odd to ding them for something that, in fact, was supposed to be a stepping stone to achieve compliance. So I would just suggest that I'm not so sure that that setting it up as an independent compliance standard would be constructive and easy to enforce.

Then, on the issue of TREC s -- or, excuse me, RECs -- that seem to fall into Bucket 3, if in fact they might be traded after they are procured in a bundled fashion; we think at SMUD that that would chill the market for TREC s and tradable RECs, which I don't think is what the State would like in terms of policy. If that bundled procurement all of a sudden is viewed as Bucket 3, who is going to be interested in buying those RECs since they are such -- they count in such a limited quantity going forward? I don't think very many entities want to buy that and particularly they won't want to buy that under your rules in Year 1 and Year 2 because that's
not when we would need them for compliance purposes. In Year 1 and Year 2, we're not quite sure what our level of generation might be in the third year of the compliance period, so it's not going to make a lot of sense for us to buy a lot of RECs until we know where we're going to stand in that Year 3. I think it also sets up a situation where the market price for those RECs in Year 1 and Year 2 are going to be very very low because no one will know whether they need them or not, and then in Year 3, maybe halfway through the year, a POU might see, "Oh, we look like we're going to be somewhat short," and then all of a sudden demand is high and then the price spikes. And so I don't think you want a rollercoaster market for RECs, and I think the way the rules are set up, that could happen that way. So I would hope that you would reconsider actually following the CPUC's approach in that regard.

And then I'd like to speak briefly about the idea of substitute energy under Bucket 1. This actually may be somewhat ambiguous in certain cases because electricity from an eligible facility could be scheduled on a path through another balancing authority, and so here comes the question of what is the substitute energy, if it's scheduled through a balancing authority, or from the balancing authority, itself. So how do we -- how do
we keep track of those electrons from a particular facility when scheduling can happen in a number of different ways? So I know there's no definition of substitute electricity in the Regulations now, it seems to be something that we should talk about and make sure that there is an interpretation of that that is broad enough to accommodate how energy is actually scheduled from balancing authorities from outside the state.

MS. ZOCCHETTI: Bill, this is Kate, if I could -- I'm sorry to interrupt you, but if I could ask a question there? Are you referring to Bucket 2?

MR. WESTERFIELD: Well, I think Bucket 1 says that they are scheduled within substitute electricity.

MS. ZOCCHETTI: Okay. I wasn't sure which substitute energy you were referring to there.

MR. WESTERFIELD: Bucket 1.

MS. ZOCCHETTI: Okay, thank you.

MR. WESTERFIELD: And then, well, on Bucket 2, I notice there was no definition of "firmed and shaped" in the Regulations and that's something that we all think we know what it is, but I can imagine situations where that can be subject to dispute, so I think maybe my one question I could ask now is, was it the CEC's intention to depart from the scenarios on firmed and shaped from the existing Guidebook, those scenarios that were put
onto the section of delivered energy? So there's been
precedents in the Guidebook for interpreting that phrase
and now I don't know where we stand on that.

MR. HERRERA: Bill, this is Gabe Herrera from the
Legal Office at the Energy Commission. You know, the
Energy Commission, in the Regs, what the Energy
Commission tried to do, staff tried to do, was to follow
the definitions that the CPUC had established for retail
sellers. I mean, I think that had always been the intent
from the start, and that holds true with Buckets 1, 2 and
3 to the extent some of the criteria that the CPUC
established for retail sellers in Bucket 2; to the extent
we didn't think it made sense to apply that to POU's, I
mean, there's where you saw a little bit of deviation
from those rules from retail sellers. In terms of what
the Commission did under its Guidebook for delivery of
firmed and shaped power, under the rules in place prior
to SB1X 2, I think we're looking at that to see to what
extent they can apply, if it makes sense to apply those
rules in a similar manner. But with respect to your
question, in terms of firmed and shaped power being
rerouted through, or perhaps being scheduled through
another balancing authority, I mean, obviously we can't
confirm that the electrons from the out-of-state
generator, or from the generator that is outside the
balancing authority, you know, make its way to California. But the idea would be that they had secured through scheduling the transmission path to get those electrons into California, assuming they were flown in that direction, right? I think that's -- I think obviously we need some more work on that, but we welcome your comments on why what we suggested isn't going to work.

MR. WESTERFIELD: I appreciate that, Gabe. It's just that there is a practice in place where scheduling happens from, say, a facility, or from a system.

MR. HERRERA: Right.

MR. WESTERFIELD: And I'd like to make sure -- hopefully we can get some certainty to further the policy of actually, if you will, scheduling the energy from the facility, make sure that any energy generated from an eligible facility, sort of in the hour in which it generates, will be credited, I think, under Bucket 1 even though it may seem hard to track exactly how the scheduling goes because sometimes it goes from a balancing authority and not from a particular facility.

MR. HERRERA: Right. I think, also, we met with some other POU representatives who have indicated that the way the Regulations read right now in terms of a POU or the Governing Board of a POU approving an agreement,
and when that actually takes place for scheduling of the
substitute power relative to the renewable energy, it's
not clear whether our language in the Draft Regulations
works because it's my understanding that some POUs might
be doing things slightly different, and so I think we
still need to work on that language. SMUD may be in that
situation, I mean, in terms of timing, would it approve a
contract for renewable energy and followed up by another
contract for the substitute power, assuming it wanted to
do firmed and shaped under Bucket 2? Or is that one big
process? I don't know. So we need to get input from you
guys on how that happens.

MR. WESTERFIELD: Okay, good. And sort of on
that same general subject, I mean, I see the requirement
in the Regulations that substitute energy come from
outside California, and I still don't understand the
rationale for that. It doesn't seem to be required in
the statute. So I think I could certainly imagine
situations where we would want to firm an outside
resource with energy from inside California.

MS. ZOCCHETTI: Bill, this is Kate. I think,
going to your suggestion before about kind of following
the previous kind of paradigm, 20 percent by 2010
requirements, we did require that the substitute energy
come from outside of California. I don't think we'd
really contemplated energy coming from inside California, I would have to think about that a little bit more, but that's basically why we are kind of continuing where the rules make sense, to continue how we apply firmed and shaped before, and then working very closely with the CPUC, as Gabe said, to try to align our requirements as closely as possible and that makes sense for the POUs. It seems like the statute suggests that it's a benefit to California to have incremental -- and it didn't define "incremental" and maybe you're even going to get to that, and so, you know, you could think, well, does it mean incremental to California as a whole, or is it incremental to the load serving entity? We decided the latter, as did the CPUC. But I think the idea is that California would receive some benefit from the substitute energy that's coming in, I mean, but we would welcome your comments on that. That's kind of the background.

MR. WESTERFIELD: I appreciate that, Kate, but if the definition of "incremental" is incremental to the electric utility, then it doesn't necessarily mean it has to come from outside of California.

MS. ZOCCHETTI: No, right, right. I see that.

MR. WESTERFIELD: And so -- and just one final point. Again, you said that it was a desire of the CEC to follow the CPUC rules where it makes sense, and of
course, we are not huge electric utilities that have the same kind of time horizons in our planning and the same kind of volume, so I know this is an issue that you're all sensitive to and, so, are eager to find out in what ways we are different from the IOUs, and so I hope we can have a robust dialogue on that and I hope you can keep an open mind in rewriting these Regulations to take our particular size and our particular challenges in moving from our own systems to a uniform system into account.

So, thanks very much.

MS. ZOCCHETTI: Thank you, Bill. I think the buckets, just for everyone -- sorry, I didn't mean to call you back to the podium -- in your comments, I think, recognizing that I think we want to have these definitions of the three buckets as closely aligned with the CPUC's and ours as possible, and so keeping that in mind, if you think they should not be as they're written in the Regulations, please provide a rationale for why it should be different because it needs to be a pretty strong reason to deviate because we don't want to create a fourth and a fifth bucket, for example, we want everything to be really transparent. When folks are trading RECs, we want them to know what they're getting. We want to be clear on what's being retired for what is not so complex as to be unwieldy; so, just keep those
kind of guidelines in mind if you would when you're commenting on the buckets. So thank you, Bill. I'd like to invite James Hendry from San Francisco PUC.

MR. HENDRY: Good afternoon. My name is James Hendry. I'm with the San Francisco Public Utilities Commission. And I also would just like to thank the staff for trying to put together into the Regulations, and trying to boil down and summarize what is a very complex rule into somewhat simpler Regulations. I guess that sort of leads to a general overview of comments of, you know, I think these are somewhat similar to what have been raised in the RPS Eligibility Handbook, is that sometimes in trying to simplify and consolidate what is in the legislation into Regulations, sometimes there's some nuances and definitions that gets slightly changed and, in most cases, that doesn't matter, but in some cases there are significant impacts to that and we've identified several in that which I think we'll work with you to kind of work through and resolve.

A second kind of broader one, and I realize you kind of want to get this out for comment, and it's very helpful the way you got it out for comment for us to look at, but as we move from this being a document, just the lawyers and the Regulatory legislative staff are looking at, and it goes down to the operations and scheduling
people, it would be nice for the document to be sort of
self-contained, and as written there's a lot of sort of
references back to other pieces of legislation, or other
Code Sections, and that's helpful for us to figure out
where your thinking is and where you're going, but I
think as this evolves through the process, I hope your
goal is that you then kind of move those sort of
references actual into the text of the document so that
we can go give it to our operations people and say, "Here
are the rules, follow then," without them having to then
cross reference back to other Code Sections, or other
sections of State law. In terms of sort of specific
comments -- I realize those are the things you'll
probably work through as you go forward.

In terms of specific comments, I guess we have
sort of three broad categories, the first, as you know,
San Francisco has an alternative compliance obligation
under Section 399.30(k). We were curious whether you
would treat as separately sort of we're off here in this
little bucket and this is how you deal with us, or
whether you try and incorporate us under the overall
Regulations; you chose the latter approach, we think it
generally works, as I said there are some areas where I
think some of the nuances of the rules that apply to us
are not quite the same as what applies to the other POUs,
and there are some differences in the adjustments. And rather than sort of take time with this workshop, since this is very specific to us, I think this is probably better just to arrange a meeting offline and we can take care of this, just because we're really the main parties being affected by it.

The second issue, and I think this is a very broad issue, and I think it follows on something you had raised, about the bucket rules and how you define what's in Bucket 1, Bucket 2, and Bucket 3. And a general framework, without sort of going into the elaborate details, is we think the Energy Commission needs to separately develop the sort of evidentiary and legal record to support how it chooses to define what the Buckets are. And you should not just rely on what the California Public Utilities Commission did. And there are three sort of broad reasons why we believe that's true. The first is you're interpreting a different statutory language. The language that the California PUC had to deal with dealt with determining what electricity products qualified for the various Bucket categories. The language that the Energy Commission has to decide for the POUs deals with electricity products, including renewable energy credits that count toward the various bucket requirements. So it's a different statutory
language. The issue of renewable energy credits, which
seems to be the big issue that's in dispute, is
separately identified in the rules that the Energy
Commission must adopt for the POUs. And so you can't
just rely on what the California Public Utilities
Commission did, and we think the separation of renewable
ergy credits probably leads to some of the conclusion
about Bucket 1 bundled energy, once it's unbundled,
remains in Bucket 1.

The second issue that was also very big in the
CPUC proceeding was the issue that two types of -- what
is an unbundled renewable energy credit. And I think
what the Energy Commission needs to look at is basically
there are two types of unbundled renewable energy credit,
there are those where you buy energy and then you
separate out the RECs and unbundled energy. But the
second definition, which comes from the Energy
Commission's own rules, it refers to power that is
bundled, but can't be delivered to California, and this
is a definition that the Energy Commission has developed
and used over time. And so I think for those reasons, we
feel that the whole issue of what the RECs are and how
you define what buckets they fall under, specifically
unbundled RECs, there needs to be a sort of separate
record developed to deal with these differences in the
legislation, the different rules that the Energy
Commission itself has adopted, and the different
statutory mandates it's operating under, and that's one
of the things I think that there needs to be much more
further discussion, I think, as a lot of other parties
have said.

The third issue is one that I know we kind of
raised briefly, but it goes to this issue of the Energy
Commission's authority to have a cure period, or a true-
up period under the Regulations. And you have the
authority to issue a Notice of Violation and/or
correction, and so we were hoping to explore the
possibility that we could develop some sort of Notice of
Correction that sometime between the end of the calendar
year when you're reporting -- when you figure out what
your obligation is, and June when you file your reports,
if you realize that you're short a few RECs here and
there, you could just kind of make it up during that
period and then submit a completed application that shows
you're in compliance. And we think that's sort of in
your authority of sort of dealing with Notices of
Violations and Corrections, and we'd like to pursue that
issue with you, and we think that would be a lot easier
than currently where, then, you know, you'd have to
submit the report and say, "Gee, it's looks like we're
short," and then it triggers this whole enforcement process that is laid out here, which seems to take -- if everything goes according to schedule, it takes about six months, nine months or something to get to. So it seems like if you could just kind of short stop that, of saying, "No harm, no foul, we realized we're a little bit short, we're going to true-up this small portion and get it to you in the compliance period and avoid the whole procedural steps that follow after that." We think that's something you could do in your jurisdiction and we'd like to explore that issue with you.

And so other than those three issues, we look forward to working with you and we'll probably address these in our comments. Thank you.

MR. HERRERA: Can I ask a quick question for you, James, concerning the penalties. I mean, one of the things that the Energy Commission staff has been doing is working with the Air Resources Board; we wanted to make sure that our authority, you know, stops at some point and that the Air Board's authority then picks up. And when we take a look at the statute, I mean, it's pretty clear that we make an assessment as to whether the POU has complied with the requirements in the RPS, and if not, then we issue a complaint. But the law seems pretty clear that, on the penalty phase, that it gets
transferred over to the ARB. Is what you're suggesting, it would kind of nullify the ARB's role to this regard? I mean, if the Energy Commission was to somehow conclude, "Well, you guys were in violation, but we're going to let you make it up somehow," would that -- I mean, do you think that's kind of getting into the Air Board's jurisdiction there -- at all?

MR. HENDRY: Uh, it's an area we'd like to explore. I mean, the Regulations look at Notice of Violation and Correction and if you look at like what Notice of Correction is under a lot of Air Quality rules, a lot of it is sort of these minor sort of compliance issues, you know, you're a little bit short, the records weren't quite right, and there's a processes set up in a lot of Air Resources Board rules, or Air Quality District rules, which is the Notice of Correction process was basically, "Oh, minor problem, fix it," rather than, you know, we file a complaint, go through the whole formal process. And so we think -- maybe it ends up that the utility would file it with the Air Resources Board in advance and kind of sit there and say, "We're pleading guilty in advance to being short and if you accept, we're making it up," then we skip the whole process. I don't know, I mean, we think it's within the concept of Notice of Violation and Correction, that Notice of Correction
aspect of it, if you look at how it works for Air Quality
Districts, there may be opportunities there for the
Energy Commission to work with the ARB and the POUs to
kind of sit there and say, you know, between the end of
the year and June, if you realize you're short, rather
than just coming in and saying in June, "Okay, we're
filing a violation," "We're filing, we're in violation,"
and the whole process starts, just kind of say, "Yeah, we
realize we're in violation, but we fixed it," and the Air
Resources Board rules tend to have sort of similar
criteria about sort of the magnitude of how much you're
short, or whether it was -- so if it's a chronic
violation, or willful violation, or if it's a major -- if
you're really out of compliance, it doesn't count, but if
there's some sort of small threshold, the Air Resources
Board can say, or the Air Management Districts which
enforce a lot of Air Resources Board rules, say, "Well,
just kind of fix it and move on." So we think it's an
opportunity out there, that there may be issues, and we
kind of just want to flag it as something for you to
consider as you go forward.

MS. ZOCCHETTI: Thank you, James. I'd like to
invite Fred Lyn from the City of Rancho Cucamonga.

MR. LYN: Hi, good morning. Fred Lyn, I'm the
Utilities Division Manager with City of Rancho Cucamonga.
I'm also here representing some of the other smaller POUs within Southern California, including Cities of Marino Valley, Victorville, Cerritos, and Corona. I appreciate the opportunity to address the CEC on the Proposed RPS Regulations and how they directly affect the smaller POUs.

One of the key distinguishing features of the smaller POUs is that we had to settle into Settlement Agreements with Southern California Edison in the form of exit fees. A portion of those exit fees was attributable to Edison's renewable resources and we feel that the CEC should consider this alternative when dealing with costs that we had to pay for the smaller POUs. Another attribute that the smaller POUs has is we were formed and began providing power really in like 2003-2004. And by then, the first RPS law was already almost two-years-old, and we aren't really starting from the same starting line as the other POUs, as well. So that's something that we'd like consideration of, as well. We want to thank you for the opportunity to provide alternatives for us and how we can make this RPS Regulation work for us because we are a little bit different. As previously mentioned, the starting point for our cities are not equal to the other POUs and the exit fees that we had to pay, a part of it was attributable to Edison's renewable
The second alternative that we plan to submit for further consideration is consistent with how the smaller IOUs are being treated in SBX1 2, the smaller POUs here may have relied exclusively on RECs for compliance and that's something that we'd like the CEC's acknowledgement, to see if our Governing Boards may also adopt this alternative approach, specifically in the first compliance period. And, really, that's dealing with the lack of financial resources that we are dealing with, as well as the likelihood that this disproportionate rate impact to our customers is one of the justifications of why we're asking for the similar extension to the smaller POUs, as well. Thank you again and we, the smaller POUs within Southern California, look forward to working with the CEC staff on this.

MS. ZOCCHETTI: Thank you, Fred. Next is Jeannette Olko with the City of Marino Valley.

MS. OLKO: Good morning. My name is Jeannette Olko. I am the Electric Utility Division Manager representing the City of Marino Valley, as well as the Cities of Rancho Cucamonga, Victorville, Cerritos, and Corona. I appreciate the opportunity to address the California Energy Commission on the proposed RPS legislation.
Very small POUs less than 30 megawatts of load, Marino Valley is among the largest of the small POUs at 30 megawatts peak load, reformed to protect against the economic instability that resulted from the 2000-2001 energy crisis. Marino Valley began serving their customers in 2004, and we provide service to developing portions of the City, trying to serve as an economic development catalyst within the community. It should be noted that our city is in the first year of a three-year deficit elimination plan. There is currently a hiring freeze, our economy is still lagging in the Inland Empire, and our unemployment rate is hovering right around 15 percent at the present time.

Marino Valley and the other cities have adopted enforcement plans pursuant to SBX1 2 and the resolutions are posted on the CEC website. Marino Valley and some of the other cities have purchased tradable RECs to meet a portion of the compliance requirements for the first compliance period.

We support the provisions in the proposed regulations, which allow the POUs to meet REC requirements for all three years of each compliance period in the final year. But since Marino Valley is starting from zero and there are only 18 months of the compliance period after the CEC Regulations are scheduled...
to become final, more flexibility is needed to avoid disproportionate rate impacts on our customers, particularly in the first compliance period. We continue to request the CEC to expressly acknowledge that the City's Governing Boards, our City Councils, may consistent with various provisions of SBX1 2, relating to small utilities, determine that it is reasonable to rely 100 percent on RECs to meet our RPS requirements in the early compliance periods.

Marino Valley and the other very small POUs have had very high initial cost formation, including building substations, meeting reliability requirements, and meeting utility regulatory requirements. We have hired a consultant to help us conduct a cost of service study, initial indications are that, even without including the cost of meeting the SBX1 2 renewable resource commitments, Marino Valley may need to raise rates. That result could require Marino Valley to establish cost limitations as described under SBX1 2, to prevent our customers from having to pay even higher costs, unless we can work with the CEC to find low cost alternatives for meeting our requirements.

The process of going through a rate adjustment, which may also be required to establish the cost limitations under SBX1 2, includes hiring consultants to
help conduct cost of service studies, designing rates,
b briefing our City Councils and customers, and conducting
public hearings. The whole process is time consuming and
costly, and we question how much the CEC wants to involve
itself in reviewing such processes for multiple Publicly
Owned Utilities. We agree in general with the comments
of the CMUA that the Draft Regulations are overly
proscriptive and may interfere unnecessarily with the
authority of the POU Government Boards preserved under
SBX1 2.

The Reporting and Verification requirements are
onerous for the cities. Marino Valley, like other small
POUs, have very few employees available to respond to any
new reporting requirements. For example, we have a total
staff of five.

We will include our proposals in simplifying the
requirements in our written comments. We appreciate the
opportunity to participate in the workshop today and we
look forward very much to working with you to complete
Regulations which all of the participants in this process
can support. Thank you.

MS. ZOCCHETTI: Thank you, Jeannette. Next is
Bawa from Pasadena Water and Power.

MR. BAWA: Good morning. My name is Gurduran
Bawa, I'm with the City of Pasadena Water and Power. And
it has been said about the hard work that staff has put in and we do recognize the complexity of this subject matter. My questions generally relate to more of a clarification with regard to the language that has been proposed. It implies, reading it, that the pre-June 1, 2010 energy contracts would be -- would not fall into the procurement content categories. So, in other words, if for the compliance period 1, let's say they accounted for 10 percent, then the procurement content category criteria in terms of, you know, you can have only 50 percent, no less than 50 percent, for Category 1, and so on, so would apply to the rest of the 10 percent. Is that correct understanding?

MS. ZOCCHETTI: Anybody want to --

MR. HERRERA: Yeah, this is Gabe Herrera. I think that's correct. So if you have procurement that was approved by the POU before June 1, 2010, and it meets the Energy Commission's eligibility requirements at that time, or would have perhaps, then that counts in full and then, so, what the POU would then carry forward in terms of its obligation would be the difference between that and the procurement requirements. So, if you had 10 percent, the count is in full, and you need to be at 20 percent, then the 10 percent difference would be subject to the bucket requirements. That's how we've initially
MR. BAWA: That's how I perceived, I just wanted to clarify. Thank you. Could you clarify, what does the metered boundary of California Balancing Authority Area mean, really?

MR. HERRERA: So, that is language we pulled right out of the statute; if we need to provide, you know, a better definition to make sure that's clear, that's something that we intend to work with the POUs to clear that up in the definition.

MR. BAWA: Yeah, that would be helpful. To me, it seems like any time energy is put into any balancing area authority, it is metered, so I'm wondering if there are situations where it is unmetered.

I have a few questions related to the Section 3203 Portfolio Content Category. Under Section 1A-1B, where it talks about the RPS Certified Resource being interconnecting to the electrical distribution system, the language is somewhat, I think, at least from my perspective, not very clear; but the question that comes to my mind is that, if there is a CEC certified facility within California and it's connecting to the distribution system of a California Balancing Authority Area, can that energy be moved -- and this is all real time -- to another California Balancing Authority to serve the load?
In other words, what I'm not seeing very clearly here is,
is it saying the energy must stay within the same
California Balancing Authority Area where it was
generated? Or could it move out?

MS. ZOCCHETTI: I don't think it's precluded from moving.

MR. BAWA: Okay.

MS. ZOCCHETTI: As long as it serves a California Balancing Authority that primarily serves California, so that currently is five balancing authorities that meet that definition of at least 50 percent serves California.

MR. BAWA: Right, okay.

MS. ZOCCHETTI: Gabe, I'm not wearing my legal hat right now, so I should defer to you.

MR. HERRERA: No, I think that's right. I mean, if this is an area that needs further clarification, then we encourage your suggestions to do that.

MR. BAWA: Okay. So that's good. Then, going to the Subsection (C), and I think there was a little bit of discussion about this particular section by a previous speaker, but the question that comes to my mind is that, if there is, let's say, a windmill which is interconnected to a non-California Balancing Authority, and it dynamically schedules energy into that authority, then that authority makes it firm, makes that schedule
firm, and in turn delivers it within the same hour to a California Balancing Authority, would that type of an energy contract structure fall within the Portfolio Content Category 1?

MS. ZOCCHETTI: I believe so, if it meets all the other requirements and it's not an unbundled REC.

MR. BAWA: Yeah. The energy is purchased by, let's say, a POU here, along with the RECs, and then -- but the source is outside the California Balancing Authority.

MS. ZOCCHETTI: As long as it is dynamically transferred to a California balancing authority.

MR. BAWA: Okay.

MS. ZOCCHETTI: I believe that's our interpretation. Anyone else?

MR. HERRERA: So that would be a -- (A)-(D) is the section in the Regulations that deals with power generated outside a California Balancing Authority that is dynamically transferred into the California Balancing Authority.

MR. BAWA: I could actually read (C) as being that, too.

MR. HERRERA: But (C) also contemplates a situation where you have the power being scheduled and delivered within the same -- excuse me, being generated...
and then being scheduled for delivery within the same hour of generation, and then requiring, you know, demonstration that that schedule was in place, so that that power could in fact be transmitted into the California Balancing Authority.

MR. BAWA: That's right. And that's how we anticipate the deal to be, so it's happening within the same hour, but it's just moving from a non-California Balancing Authority where it actually got dynamically scheduled, and that authority firmed it up, as is the common practice in BPA Balancing Authority, and then, for instance, Pasadena being a California ISO participant, could take the delivery from BPA and bring it into ISO. I mean, to me, it's a -- operationally, it might seem a disconnect, but from a regulatory point of view, it may seem a disconnect, but operationally it's all happening within one hour.

MR. HERRERA: So in that, I mean, this probably gets into a lot of details, but I mean, in that transaction, then would Pasadena have an agreement for that power, that added Balancing Authority power for that given hour? And then also have some separate agreement that ensured that that power got scheduled into California? How would that be shown? Would that be shown on NERT tags, for example, indicating that, from...
the point of generation, transmission paths to get that power into the California Balancing Authority?

MR. BAWA: Right. The contract would be between, in this case, let's say Pasadena and whoever is going to be delivering that energy. So, for example, that could be a plant there, or it could be a marketer. And the point of delivery under that contract would be where BPA interconnects with ISO. So that -- the Seller would schedule energy into the BPA system, within the same hour, and deliver that energy to Pasadena where BPA and ISO interconnection is. And then, at that time, Pasadena takes it into the ISO. In some detail, we can talk about it offline, but to us that should be considered Category 1.

MS. ZOCCHETTI: So we're working behind the scenes to better understand how the different buckets can be verified and we've been working a lot, especially Gina is kind of heading that effort up, we're working closely with the CPUC on how both agencies might verify the classification of procurement into the various buckets, so we're not quite there yet to probably correctly answer your questions on the record, and we don't want to give our misinformation. But we're getting a lot smarter about how these things work and we anticipate that the details about what you're need to demonstrate to us, and
what we'll need to verify the different buckets, will be put forth in the RPS eligibility Guidebook, most likely, rather than in the Regulations. So we anticipate coming out with another Guidebook revision after these regulations are adopted, whenever that is, so that we can kind of catch all these issues that we're still working on finalizing and refining. So we don't have that answer for you today, but, again, we encourage everyone to tell us how they think these product content categories -- or, I'm sorry -- portfolio content categories -- could be verified and what documentation exists in your world that we can use to kind of corroborate your claim, you're going to claim if they're in a certain bucket, that we need to be able to verify that. So we welcome your thoughts on that perhaps in your written comments.

MR. BAWA: Sure, we'll do that.

MS. ZOCCHETTI: Thank you.

MR. BAWA: And under the same clause, it talks about the POUs Governing Board must have approved an agreement, and it's quite common in POUs that the Governing Board would delegate some authority in terms of either the duration of a contract, or the quantity, or dollar limit, to staff. And especially for short term contracts, it could be one year, six months, two years, something like that, and is the intent here that, if the
Governing Board has delegated that authority to the staff, that staff enters into a written agreement that's acceptable? Or are you stuck on the literal meaning of having it approved by the Board?

MS. ZOCCHETTI: I think we've heard similar concerns since the Draft Regulations have come out, I think that's a learning curve for us as to -- I don't think I can answer that question, but we've heard that concern and we hope to address it, you know, so that it's workable.

MR. BAWA: Okay, great. The only reason I'm saying it is administratively -- it creates a lot of time for us, a lot of extra work, and many times the seller is not going to wait two months for our Board to approve --

MS. ZOCCHETTI: Sure. So --

MR. BAWA: -- whether it's going to be approved or not.

MS. ZOCCHETTI: So I think we suggest that, give us a phrase that you think should replace the POU Board there, and we can kind of see if everyone is on the same page as to how they do that process at the various POUs.

MR. BAWA: Okay. We appreciate that. And then moving into the portfolio content category 2, subsection 2(A) where it talks about that the -- in that firmed and shaped arrangement, the source of energy and the
substitute energy both should be coming from out of the California Balancing Authority, you know, and there was some discussion about that, is there really a good reason why the substitute energy must come from outside?

MS. ZOCCHETTI: As you pointed out, it has been raised earlier. I think we'll have to think about that and --

MR. BAWA: Okay.

MS. ZOCCHETTI: -- and talk with the CPUC staff.

MR. BAWA: Okay. My last question relates to that it seems like, irrespective of the portfolio content Category 1 or 2, but I'm more focused on Category 1, the lexity products coming from a RPS sort of CEC certified facility, which has the first interconnection with the California Balancing Authority, qualifies into a portfolio content Category 1 or 2. And the question is, lexity products are strictly, the way I read it, is lexity and the RECs, there's no -- it doesn't have a fuel component consideration in this. And if a facility is certified to burn biomethane, then does -- and I'm bringing up that issue because biomethane has been an issue of discussion quite extensively, and PUC in its own docket did specifically talk about biomethane -- is the intent here that the content categories would be determined strictly based on the lexity products,
irrespective of the fuel, as long as the facility is certified by CEC?

MS. ZOCCHETTI: I believe that's how it is in the statute and that's how we're implementing it.

MR. HERRERA: That's correct. The way the draft regulations are set up right now, we're looking only at electricity. The issue you raised is an RPS eligibility issue that is one that would need to be addressed in the Commission's RPS Eligibility Guidebook. So if the facility has been certified by the Commission based upon its use of a renewable resource, then it would be certifiable by the Energy Commission. And then, if the power that was generated by that facility falls within, you know, depending upon which bucket it falls in, is how it would be classified.

MR. BAWA: Okay, that's very good. So I'm assuming the facilities that are already certified, they would continue to be certified unless the law changes, or something like that happens?

MR. HERRERA: So RPS certified facilities, yeah. Under our current Guidebook, if a facility is already certified, then typically it retains that certification unless the law changes and no longer permits that.

MR. BAWA: All right, thank you very much.

MS. ZOCCHETTI: Thank you, Bawa. I would like to
give everybody a break. It's a little past -- well, I
was going to convene back at 11:00, but I don't think
that's quite enough time, so let's reconvene at 11:10 and
have a little stretch break. Thank you.

[Break at 10:51 a.m.]

[Reconvene at 11:17 a.m.]

MS. ZOCCHETTI: So welcome back, everyone. We
have just a few more blue cards here, so just as a
reminder if you do want to speak, please fill out a blue
card, they're on the front table by the front door.

Next, I'd like to invite Danielle Mills from the Center
for Energy Resource Technologies -- I got that wrong --
CEERT.

MS. MILLS: Hi, I'm Danielle Mills with the
Center for Energy Efficiency and Renewable Technologies.
I want to thank you all for having this workshop today,
I've already had a lot of my questions sort of clarified
and fleshed out. I have a few more clarifying questions
and then just a couple quick comments that we'll
reiterate in written comments. Some of these are also on
behalf of the Union of Concerned Scientists, as well.

So I just had a conversation during the break
about the Draft Regulations on tracking and verification,
and it seems like there's a little bit of uncertainty
still in how the tracking and verification will take
place, especially with regard to Product Content Category 1. So I just want to kind of encourage consistency with the CPUC's decision on this, and I think it mentions eTags as a tracking and verification mechanism, and so some further clarification in the Regulation would be helpful.

    Second, there are just a couple of small differences in the language that SMUD raised that could have significant implications on the compliance with Product Content Category 2. We'd like just further clarification on what those differences mean, whether they are significant, and what the background is on those, and wherever possible just encourage consistency between the definitions of the Content Categories with the PUC, just from a stakeholder perspective that makes things a lot easier for us to kind of know what falls into what bucket and what's right and what's not.

    Thirdly, the procurement targets, this is an issue that is shared with Union of Concerned Scientists, but the procurement targets are based on retail sales in the last year of the compliance period. I was under the impression from a briefing that we had with CEC staff earlier this month -- or last month -- that there was going to be sort of a more linear trend, or a more annual compliance requirement, and that's something that we
would like to see also to be consistent with the PUC
Regulations.

And just finally, a couple things about
compliance in general. It would be helpful to have more
information from CARB in terms of how they're going to
assess the penalties and what the relationship will be
between the CEC and CARB throughout that process, and
also what CARB's role will be in looking at the reporting
requirements and enforcement plans.

And we also have just a final concern with the no
complaints policy. It seems a little odd that members of
the public aren't able to raise concerns when they see
non-compliance from their utilities. Thank you.

MS. ZOCCHETTI: Thank you, Danielle. George
Morrow, Azusa Light and Power. I'm sorry, I just
realized my mic was muted, so for those listening in,
George Morrow, Azusa Light and Power.

MR. MORROW: Good morning. I'm George. I didn't
intend to speak today, but just like spiritually I was
drawn to the podium, so -- and if I'd know it was going
this long, I wouldn't have done it to you, but we are
another one of those smaller entities that believe this
is an extremely important part of our business. We've
been around a little longer than some of the other
smaller POUs you've heard from today, we've been around
about 100 years. We're starting at a good place, we're
at 20 percent renewables today, but a couple of comments
that I'm left after hearing from everybody else, and it's
kind of nice to be one of the later speakers, is this
concept of deference to the local regulatory authorities.
When I meet with my Utility Boards, I'm the one that's
got to do the agenda and get up there in front of my City
Council and my Utility Board, you know, their neck is in
the wringer, so to speak, and I don't know if that's a --
for what they do and how the utility performs, and what
our rates are like. So, you know, if we're doing things
that are going to require a rate impact, you know, they
could lose their job, you know, they are elected by folks
that like to see the utility perform well, rates get
under control, and it's a little different than IOUs.
You know, the IOUs, the CPUC, has both the regulations,
the details, and they sit there and take the heat for the
rate side of it, but it's a little different here. You
know, we've got the California Energy Commission studying
the regulations and, from what I can tell, you guys are
doing a great job, you're very knowledgeable, you appear
to be open minded and flexible, and I appreciate that
very much. But, you know, in the end our adherence to
the Regs are going to provide some heat, probably, to our
local regulators and City Council. So we like to defer
and delegate as much as possible to the local regulatory authorities, we think that's the intent of the Regulations, and so where there's a vacuum or it's really not spoken to, you know, if you were to ask us what should you do, we're like, "Okay, well, let us handle it." If at somewhere down the road we don't handle it well, maybe that's a different story, maybe we had another discussion and say, "Well, hey, we gave them the chance, you know, they wanted to be in the driver's seat, but they crashed the car, so maybe we've got to do something different." But I don't think that will happen. Again, this is as important to us as it is to those who develop the statutes and those of you that are working on the Regulations.

I want to echo what I heard from Tim at SMUD, the administrative burden of compliance is tough for the small utilities and so we hope you consider those thoughts and do what you can to kind of minimize that; if it's really not required, you know, give us a little more time and perhaps not be so proscriptive on some of this stuff. So my compliments to everybody again and thanks for letting me talk.

MS. ZOCCHETTI: Thank you, George. Randy Howard from LADWP.

MR. HOWARD: Good morning and thank you for the
opportunity. I thank also the staff, as others have
done, for all the hard work, we really appreciate now
having something that we can actively be working on, and
so I'd like to go over a few points, but I won't repeat
what others have stated, as well, I want to make sure
that I just stay to the high level, we will be putting
forth written comments.

One of the things that I feel today that will
kind of disadvantaged is we don't have what will be the
RPS Guidelines, we don't have those at the same time. So
we don't know how those will complement the rulemaking.
And that's a real challenge for us as we're here today
trying to comment on this rulemaking, when we don't know
what's going to count. My staff, they have a couple
pages of tables of projects that have been provided with
applications to the CEC for certification and they're
still not certified. So we're in the middle of a
compliance period today, still not knowing if our project
is going to be certified. So I'm not sure if within the
proposed rules how you're handling projects that have yet
to be certified, yet are producing, and what we think
meeting our RPS obligations in a current compliance
period. And I didn't really see that addressed, it's not
addressed, okay. So that is a big deal to us, we do need
to have that addressed.
The other thing that we've had a side discussion
on with a number of parties, but it's not in your
proposed rules at all, the definition of pre-
certification. There's an interpretation from CEC staff
as to what pre-certification means; those of us that are
new to this regulatory oversight had a very different
view of what pre-certification meant. I think we've
tried to do a good job at educating staff as to what it
takes for us to implement RPS programs, what it takes for
us to integrate these programs, but I don't think we've
done enough based on what I see in the proposed rules.
We need to probably do a little bit more. I would
second, or third, or whatever, Tony's comments as to the
need for additional time. We probably do need to spend a
little bit of additional time, some separate meetings, to
really talk about some of the specifics that are
different with POUs vs. IOUs. It would be ideal if we
could have standardized process and rules for both the
IOUs and the POUs, but we really can't -- we are very
different entities, we operate differently, we enter into
agreements differently, as you've heard from a number of
parties today, they are small -- they are very small.
One 25 megawatt solar farm for Azusa would be a massive
project that they could not integrate, they could not
handle, they could not manage, but for others it is. So
one broad comment, as well, I'm very concerned the way
the rules are proposed because it doesn't consider some
of those differences in, say, a SCPPA structure. So
SCPPA is a joint power authority that was formed for the
purposes of allowing a number of utilities, municipal
utilities, to come together and efficiently build
transmission, and efficiently we've been able to use that
model to build a number of renewable projects and enter
into those renewable projects, as well as natural gas and
other things.

SCPPA enters into the contracts with the counter
parties, the developers and the operators of these
renewable projects if it's a SCPPA project. LADWP does
not. SCPPA is entering into that agreement. So the way
the proposed rules seem to be written, it's as if L.A. is
that direct counter party and, in many cases, if it's a
SCPPA project, it's not. So I think we need to ensure
that it's a clear understanding the way the structures of
many of these projects are because this is how we're
going to be successful in California and get a number of
the smaller municipal utilities into more of these cost-
effective projects, is through a structure like a SCPPA
structure, yet the proposed rules seem to follow a little
bit more of the PUC, which is very different for Southern
California Edison, or a PG&E, or San Diego. So we'll
have some very specific comments to that. But when we
talk in here, when you look at some of the buckets and
you call it a resale, you know, our concern when we look
at that is, is that SCPPA now reselling it to L.A.? Or
is that SCPPA reselling it to Azusa, Glendale, Burbank,
Pasadena, or IID? That should not be the intent. If
it's a Bucket 1, or if it's a grandfathered project that
was entered into on behalf of SCPPA for the SCPPA
members, then it should be a grandfathered project.

The other provision in all of the agreements that
we've entered into on behalf of SCPPA for renewables,
there's a provision that says these are the principal
entities taking the power as the contract is entered
into, but it allows for any of the other SCPPA members to
potentially take some of that power at some point if the
need is there. But they might not be taking it today.
So does that mean they don't get some of the rights when
you read the proposed rules as drafted? So we probably
need to help you a little bit more on how these
structures are currently in place to make sure that the
rules still apply appropriately. And that's a very
different thing than what the PUC has been addressing
with the IOUs, but we just didn't see it there.

We had some other concerns, so there are
provisions that would say if you don't meet compliance,
you have some reasons that you might not meet compliance,
we know of a very large issue, Bonneville Power
Administration has notified us, they need to do an
upgrade in the northern end on a Pacific D.C. intertie, a
major transmission line into Southern California,
it transports about 3,100 megawatts, both Edison and L.A.
and some other Publicly Owned Utilities run that line.
They have indicated to us that, for an entire 12-month
period, there's going to be very limited capacity on that
line, it's going to impact all of our projects that are
in the Pacific Northwest. So we don't believe if we
still have wind farms up there generating, and we are
unable to deliver that, but those RECs should not then
just default to a Bucket 3. Our opinion is they're
grandfathered, they should remain grandfathered, and the
way the grandfathering language seems to read, there's a
conflict on an issue like that. So, again, it's an
operational issue that we probably haven't done as good a
job educating those impacts and what can really happen
out there. There might be some alternative paths to
deliver energy, but it's really going to be more of a
swap-type basis. We don't think that should take away
from the Bucket 1 provisions on something such as that.
Some of -- again, I'm going to try not to repeat what
others have stated -- we also had some concerns on the
POUs have chosen to own and operate a number of projects, or we have options to own those projects, so we want to make sure that, when we go to exercise the option to own a grandfathered project, that that doesn't kick us out of the Bucket 1 because, now, is that a resale? Is that a different transaction that would be considered outside of the Bucket 1?

Also, a number of the members that are in ownership projects that could be grandfathered, if we have a wind farm and that wind farm has a turbine, and I hate to use the name of the turbine, but -- Clipper Turbine -- Clipper is a turbine manufacturer, if Clipper goes out of business and that turbine needs to be replaced because it has a mechanical failure, and I can no longer just replace it as a one-for-one because Clipper is no longer in business, and I put a different turbine on that site, but that turbine that I have put on site is a different turbine and of a different size, the way the proposed rules seem to read is I couldn't count any of the incremental power that might come out of this larger turbine, and I don't think that should be the intent. I think we should have that ability and, in all of our contracts, we have the obligation because we're part of an interconnect, we have the obligation to take the entire output of those facilities. So the way that's
proposed, where there couldn't be a modification, we probably need to get to a clarification or a definition of what a modification would be.

We still don't see the provisions that we believe are in statute related to the large hydro, sufficiently covered to ensure that those of us that have that larger hydro that should be covered, that those are included going forward.

Let me take one last look to see if I -- so I think in closing, that we will have a number of very specific comments. We need to go back to some of how we operate and why it's different for a POU. In the case, even for an L.A. that's very very large, we currently have about a thousand megawatts of wind power that we have procured, that delivers to our system. Our average peak right now on a day is around 3,200 to 3,400 megawatts right now. Now, in the summer, it's going to be about 6,100 maybe, the peak. Fortunately, I wish I could tell the wind farms to operate and the wind to blow on those days, but that's typically not the case. So when we get to the off-peak hours, so if my peak today is 3,200 megawatts, my off-peak is probably closer to 2,000, and I have nuclear, and I have existing coal, and I have other resources that I have to operate for the reliability of the Grid, and if I get all of a sudden one
thousand additional megawatts of wind in the off-peak hours tonight, I can't operate the system where my operators are unable to do that. So the provisions of firming and shaping and the use of those tools for POUs become much more important, but the way the proposed rules are written, it seems to be in a way that somehow you're trying to catch us, or keep us from cheating the system, and that shouldn't be the intent because the purpose of what we're trying to do is be able to efficiently operate the system. We are generating a renewable energy, the problem is the way our systems are configured and the way the size for many of the POUs, we just don't have some of the same capabilities for the integration. And firming and shaping is a very cost-effective way for us to be able to operate these systems. So as the Bucket provisions are drafted in the proposal, we have some concerns there, as well, that we'll raise some comments. With that, I'll close or take any questions you might have. Thank you.

MS. ZOCCHETTI: Thank you, Randy. I do have a couple just responses to a couple of your points, I don't know if you need to stay at the podium, but I just wanted to let you know that, on the 40 megawatt existing small hydro, that will be addressed in the RPS Eligibility Guidebook that we hope to release in March -- we are in
March -- we hope to release this month. So I just wanted to let you know that because that's an eligibility issue.

On the pre-certification, we do recognize that the POUs, many of you are not as familiar with our terminology, we sort of have our own language, but we do describe it to some length in the RPS Eligibility Guidebook, so for those of you that haven't familiarized yourself with that document, please do so, it is on our website, and also on our website is a revised version that we had a workshop on last fall, so if you look at the most current one, it's in underline strikeout, kind of messy to read, but anyway, that's available for you to help understand pre-certification. And we agree it takes too long to certify facilities, we're working really hard on these Regulations, and we did just get a whole bunch of new staff who are here today, so we hope to be able to expedite that process. So you know, we regret that it does take too long. I would add, though, that once a facility is certified, in case you don't know this, I hope this alleviates a little bit of the concern, we date stamp the application when we receive it and, presuming that it eventually is certified after our review, we allow those RECs that have been generated since that date of receipt to count towards your obligation, so we certainly don't want to put you between a rock and a hard
spot there. But we understand that you want more
certainty about whether or not they're certified, so we
are working on that.

MR. HOWARD: If I might ask, and if you're unable
to answer, that's fine too, but will the Guidelines also
address some of the concerns that have been raised
previously as to, say, we're building a solar farm and
we're incrementally building it out, that the way the
proposed guidelines were written, we couldn't certify it
until it was completed. But yet we would be delivering
in incremental phases. Are we proposing to address that
in the Guidelines?

MS. ZOCCHETTI: Well, I think -- I'm glad you
raised that, we can make sure that we do after hearing
this question, it kind of revolves around test energy and
how that gets into WREGIS, and whether it looks at the
whole facility having to be completed even though it's in
phases, it also affects PV, which builds in phases,
typically. So we're hoping to address that. We will
come out with a final draft before it goes up for
adoption. If you feel that the language that we've
proposed doesn't address it, or doesn't do a good job,
please let us know.

MR. HOWARD: Yeah, again, I think that's some of
the disadvantage, a challenge we have, on some of our
comments is because we don't quite know yet what's going
to be in the Guidelines and how it will be stated, then
it's going to impact how it's going to be implemented in
the rulemaking for us.

      MS. ZOCCHETTI:  Sure.
      MR. HOWARD:  Thank you.
      MS. ZOCCHETTI:  You're welcome. Thank you.

Susie Berlin from NCPA is next.

      MS. BERLIN:  Good afternoon. Thank you for the
opportunity to comment. My name is Susie Berlin and I'm
representing the Northern California Power Agency. We
want to express our appreciation for this initial draft
and all the work that went into it, we appreciate all the
work group meetings that you had with the stakeholders
and to try to get our input and comments. But with that
said, we still have a few concerns and we believe that
there are areas that we need additional information and
we look forward to this continued dialogue that you've
expressed an interest in doing, to try to get these
revisions and these clarifications set forth.

      One of those areas is the actual interpretation
of the legislation, and I know even Commissioner Peterman
said some will think it goes too far, some will think it
doesn't go far enough. But one issue that we think needs
to be addressed is this notion of being consistent with
the legislation as the legislation is drafted, and not consistent with the CPUC's interpretation of the legislation. And that goes to one of the issues that Randy was just talking about; to the greatest extent possible, it would be nice to have the same rules, but the Legislature acknowledged that that's not entirely possible and that's why there are separate provisions applicable to the POUs, and I think that we need to keep that in mind when we're developing the specific provisions.

There are also provisions where the statute specifically allows the POUs to develop rules and programs, for example on the flexible compliance mechanisms, that are consistent with the legislation and that's not necessarily what is in the proposed regulation and, in fact, we believe that there are parts of the proposed regulation that assert that POU authority and that there are parts of those provisions that also go beyond what is even written in the statute in some respects. That latter might be an issue of capturing the nuances, like Jim Hendry mentioned earlier, so that's one of the things that we look forward to working with you and talking about.

We have some concerns with regard to the reporting. We understand that the legislation calls for
the annual reporting of certain information and you need
to have compliance reports, but there's also -- that
which reports you're asking for in July -- but there's
also these January reports where you're asking us to
submit our procurement plans and any changes to our
enforcement plans, and we have concerns regarding the
timelines that this may involve and the implications that
this may have for ongoing POU activities if you're
looking to those programs -- I mean if you're looking to
our plans to make any kind of a determination with regard
to our ongoing compliance. So that could be problematic
and we need to talk about those provisions, as well. And
that goes to the concerns we have with regard to this
demonstration, that it appears that the CEC is asking the
POUs to make regarding reasonable progress, and if you
don't have the 1.5 or the 2.0 percent annual trajectory,
or if for some reason you didn't meet your compliance
obligation, but that was excused because of one of the
other flexible compliance mechanisms you can't use that
trajectory, so you go to a subjective review each year,
and we want to talk about what that looks like in your
interpretation, and what standards, and what exact
information you're going to be looking to, and how your
interpretation is going to be reflected on the POUs; the
subjective nature is very problematic, so we'd like to
have some more information from you about what you're envisioning in that respect.

With regard to Attachment B, wondering if you can let us know a little bit more about what context it is that you're looking to use that information. We think that looking at the financial implication is not only procuring renewables is very important, but the administrative costs that are going to be associated with those because those administrative costs are not de minimus, especially for smaller POUs, and that's not just the newer POUs, there's a number of existing POUs in the state that are decades old, but they're also very small, so the administrative burden is a big issue and we were just curious if you could give us a little more information about the context in which you intend to use that information.

And also, with regard to Section 3204, you've referenced in there the provisions of the statute that apply to entities that have special -- I don't know if "accommodations" is the word we're looking for -- but special mention in the statute, and we'd like to point out that Section 399.30(i) also pertains to one of those entities that is similarly situated, that will have a little bit different rules, statutorily mandated. So we think that should be referenced in there, as well.
And finally, we agree with the need to have these continuing discussions and ideally have these discussions before the final workshop comments are due and would prefer something closer to a March 30 deadline date for comments on this initial draft and the workshop itself. Thank you very much.

MS. ZOCCHETTI: Thank you. Is there anyone else here at the Energy Commission who would like to make a comment? Bill. Make sure you state your name again, please.

MR. WESTERFIELD: Bill Westerfield again with SMUD. There was one question that I did not bring up in my earlier comments, and I noticed in the Regulation that the Regulations follow the CPUC rules for allowing contracts that start in a particular bucket to be resold and stay in that bucket, and that's very clear. But it didn't address the situation where we would have pre-June 2010 grandfather contracts and what happens when they are sold. So I would hope that we could follow a similar concept where grandfathered contracts could continue to be grandfather contracts in the event they're sold. So that was my comment. Thank you.

MS. ZOCCHETTI: That's a good point. Thank you, Bill. Anyone else in the room? Okay, before we move to the WebEx comments, could I get a show of hands for the
folks that, recognizing that it could push our whole
schedule out farther, I think I'm going to know the
answer to this, how many would prefer an extended comment
period, say, to March 30th? Just a date that comes to
mind. Okay, thank you. All right, I do have at least
one comment from the WebEx -- it's from Norman Pedersen
with SCPPA, and he preferred that I read his questions,
so he has three questions and I'll go ahead and read
those. And then we can see if staff cares to comment.

First, so for the Court Reporter, it's Norman
Pedersen, P-e-d-e-r-s-e-n, with Southern California
Public Power Authority. Number one, would establishing
procurement requirements for the entire TF Period 2 and
Period 3, as Tim Tutt suggested, obviate the need for
reasonable progress rules proposed in Section 3204(d)?
Number two, why does the staff propose establishing
procurement requirements for the single calendar year
2016 and 2020 instead of proposing procurement
requirements for the entirety of periods 2 and 3? And
Question 3, Sections 3204(a)(2) and (3) provide for
procurement requirements for calendar years 2016 and
2020, respectively; in contrast, Section 3206(a)(1)
provides for excess procurement for periods 2 and 3
calculated as the sum of procurements during the entirety
of the compliance period, less the sum of imputed
procurement requirements for the years of the compliance period. What is the rationale for proposing procurement requirements that apply to single years, while proposing excess procurement rules that apply to entire compliance periods? And how would these rules work together? So, thank you, Norman, for these questions. I think some of them have already -- have been echoed by other commenters. Does anyone on the staff have any responses for these questions?

MR. HERRERA: Kate, I'll comment. This is Gabe Herrera with the Commission's Legal Office. I think perhaps Tony raised a question earlier about reasonable progress in the intervening years, and I think our intent was to provide flexibility to the utilities. I think there was one correction that Lorraine made to one of the slides to try to uncouple excess procurement with the reasonable progress requirements, but first of all, the notion concerning reasonable progress in the intervening years is that the POUs would be required to demonstrate that in each of the intervening years, you know, they could provide this quantitative analysis, or they could show that it was more qualitative, you know, and I guess the quantitative analysis that they had procured a certain amount in each of the intervening years was really supposed to be kind of a safe harbor provision.
that, if a POU could demonstrate that in each of the intervening years, then there was no need to demonstrate through documentation, or other means, that they had taken reasonable efforts to meet the procurement goals and fell short.

In terms of the excess procurement, the way that we're looking at that is, if a facility -- excuse me, if a POU procured on average more than the -- I guess it would be the quantitative intervening year requirements, that that amount, if it meant that the excess procurement requirements could be, in fact, transferred to the next compliance period. So maybe that doesn't address Norman's comments, I'm not sure if Norman is on the line if he can -- can he speak, Norman? Are you on the line? MS. ZOCCHETTI: I'm not sure we have the phone lines unmuted, but he is writing through chat with Theresa here. Yes, if you could. Norman, we're going to unmute you if you're on the phone line; if you're not, please let us know in the chat box. So you're unmuted, Norman. Are you -- do you care to make a verbal comment or respond to Gabe's explanation?

MR. PEDERSEN: Hello? Can you hear me?

MS. ZOCCHETTI: Yes, we can.

MR. PEDERSEN: Okay, I just moved to a place where I think I can talk. Thank you. Let's see, on the
excess procurement, I guess the question, Gabe, is if you calculate the excess procurement for the entirety of period 2, how would we use any excess procurement for, say, the first two years of period 2 to help us in the last year of period 2?

MR. HERRERA: So are you talking about a situation, say, where when you look at, I guess, the safe harbor provisions in our Draft Regulations, they indicate for the second year, or the first year, and the compliance in the second compliance period, that you have to be at 21.5 percent, and then at the end of the second year, you need to be at 23 percent, and then 25 in the final year. So if you had a situation where you had a POU that procured, say, 22 percent in the first year, and then 24 in the second year, well, in theory what the utility could do is they could report and retire just what they needed to meet that 21.5 percent in the first year of the compliance period, and then carry over into the next year the surplus, and then carry over from the second year, you know, just what is needed to meet the 23 percent and meet the safe harbor provision, so that in the final year, then you could have some procurement from the first two years carrying over. So I think that's how we're seeing things, at least now from an accounting perspective.
MR. PEDERSEN: Well, the Regulation actually reads a little bit differently, this provides for calculation for the entirety of period 2, so really what you're proposing, then, if I'm following you, is not what is actually written there, but you're going to have -- you're proposing a 21.5 percent requirement for 2014, and a 23 percent requirement for 2015, and if you -- if a POU procures more than those percentages, then you have excess procurement that can be carried over to 2016.

MR. HERRERA: So I think that's right. So take my example again, say you had 22.5 percent in the first year, right, that's one percent more than you needed in that first year; in the next year, you're then at 22.0 percent, whereas when you look at the Regulations, they identify 23. Well, you could carry over that one percent from the first year into the second year, now be at 23 percent; if in the final year you're at 25, then the average of that would show that you have no net excess procurement, right? Because you've procured what you needed to meet those safe harbor provisions.

MR. PEDERSEN: Okay, but if I had 21.5 percent in the first year, period 2, and 24 percent in the second year, I could carry that extra percent from the second year --

MR. HERRERA: Right.
MR. PEDERSEN: -- into the third year, 2016.

MR. HERRERA: That's right.

MR. PEDERSEN: Right? Okay.

MR. HERRERA: And so, if in 2016 at the end of that compliance period you are at 26 percent, and you only needed to be at 25, then that one percent could be treated as excess procurement provided it met the excess procurement requirements, for example, couldn't be a Bucket 3 procurement.

MR. PEDERSEN: Okay. Now, supposed I have excess procurement for the entirety of Period 2 calculated as provided in the Regulation, can I use the entirety of the excess procurement from period 2 to count toward my 33 percent for 2020, the single calendar year 2020?

MR. HERRERA: So are you asking whether you could carry that forward to the next compliance period? I think the answer is yes, you could, you could carry that over to the next compliance period provided that, you know, the excess procurement rules were satisfied.

MR. PEDERSEN: And I'm asking whether I could use all of my excess procurement for period 2 to meet my 33 percent obligation for calendar year 2020, because the way the rule is written right now, there's only a requirement for 2020, there's a requirement that you show reasonable progress before 2020, but the procurement
requirement is 33 percent for 2020. So I kind of use all
my period 3 procurement to meet my 2020 requirement of 33
percent --

MR. HERRERA: So I think there would be some
problems with that. First of all, I mean, the RECs need
to be retired within three years from generation, so you
kind of run afoul of that. So you might have procurement
in, say, 2016 that you could -- if it met the excess
procurement requirements, carried over to the third
compliance period, but then it would have to be retired
within that three-year period with the RECs.

MR. PEDERSEN: Assume I've used all my RECs, I've
retired all my RECs to meet my 2016, so that I don't have
any RECs left, I've retired all of them, and assume that
I don't have any contracts under 10 years.

MR. HERRERA: Well, so assuming you could satisfy
the excess procurement rules and all of that could be
carried forward into the final year of the third
compliance period, I guess one problem there would be
that you might run short of reasonable progress, so, for
example, you couldn't try to bank forward all your
generation from 2017, 2018, and 2019 and show no
reasonable progress there, and then try to increase all
that, or use all that procurement in the final year. You
might satisfy the final year compliance requirements, but
then the POU would fall short of meeting reasonable progress in the intervening year requirements.

MR. PEDERSEN: Okay, what if I went up by two percent each year, but I just didn't make my 33 percent in the last year? In that scenario, would I be able to carry forward my excess procurement for period 2 and apply it to the last year?

MR. HERRERA: So you're kind of breaking up a little bit, Norm. Could you repeat that?

MR. PEDERSEN: Sure. Suppose I went up by two percent in each of the intervening years during periods 3, but I didn't have enough procurement to get to 33 percent in the final year. Could I carry forward my excess procurement from period 2 to satisfy my third year requirement -- or my fourth year requirement, my 2020 requirement for the 33 percent?

MR. HERRERA: Yeah, I think it would depend. I mean, that's probably not the answer you want, but I just -- first of all, I want to just respond to the question about assuming you retired all your RECs, so I think we need to look at the RECs issue a little bit different because there's the REC requirement in Bucket 3 that says, you know, that you can't carry -- you can't have excess procurement that comes from Bucket 3, so that's clear on the excess procurement, so you couldn't carry
forward excess procurement from Bucket 3 into the next
compliance period. But then, also, with procurement
Categories 1 and 2, you still have RECs associated with
those, and those are RECs that are tracked through
WREGIS, that need to be retired within a three-year
period. So, for example, if you had excess procurement
from Bucket 1 in the final year that could carry over
into the next compliance period, those RECs again tracked
through WREGIS would still have to be retired by the POU
within that 36-month period. So, at most, you could
carry those forward until, say, the end of the second
year of the third compliance period. But then you'd have
obviously --

MR. PEDERSEN: Well --

MR. HERRERA: Go ahead.

MR. PEDERSEN: Well, we've been assuming that a
utility, any utility, IOU or a POU, would have authority
to make the decision about which compliance instruments
to retire at which time. So, in other words, if we
wanted to require -- if we wanted to retire unbundled
RECs, we could retire unbundled RECs first in, say, 2016,
so that all we would have left to carry over to the next
compliance period would be bundled RECs, RECs that would
not be in Category 3.

MR. HERRERA: Right.
MR. PEDERSEN: So our entire excess procurement carryover, if we elected to retire RECs first, would be eligible for carryover, would be eligible as excess procurement.

MR. HERRERA: So your scenario assumes that the bucket requirements, the minimums and maximums -- or the minimum from Bucket 1 requirement would be satisfied in that first compliance period, and then maximum for RECs --

MR. PEDERSEN: Right, right, right, that when it comes to a decision about retiring unbundled RECs, we could retire the RECs, we could retire the unbundled RECs first to meet our procurement requirement obligation. So we would avoid the three-year problem, and I think that's the way certainly the IOUs have been seeing it in their comments to the PUC. Are you saying the CEC sees it differently and the utility would not have authority to decide which credits to require first and which to require later?

MR. HERRERA: No, I don’t think so. That is certainly not my position and I don't think it's the Energy Commission's position either. I just want to make sure that, you know, when we're talking about these examples, that we keep in mind that there are certain rules that apply, for example, to excess procurement,
rules that are based on what the statute says, that limit
how you can carry forward or use Bucket 3 procurement.
And since the Bucket 3 is RECs, that's a requirement that
needs to be satisfied in terms of excess procurement, and
then also keeping in mind --

MR. PEDERSEN: And am I also correct in
understanding you, Gabe, to be saying that, in order to
meet the safe harbor requirement of the reasonable
progress rules, you would actually have to retire
compliance instruments up to, say, 21.5 percent for 2014,
or 23 percent for 2015, but actually be retirements for
those years, and that's what you'd have to do to meet the
safe harbor?

MR. HERRERA: Yeah, I think that's what we have
in mind.

MR. PEDERSEN: Well, that really gets me back to
my first question that was read. If you did what Tim
Tutt was suggesting and had compliance period long
obligations, wouldn't that obviate that entire section on
reasonable progress? In other words, you could just cut
it out of the Regulation?

MR. HERRERA: Yeah, I think that's a possibility.
I mean, is that something that you're advocating, Norman?

MR. PEDERSEN: Well, it certainly would make the
Regulations, I think Tim Tutt explained, must easier to
administer, both from our standpoint and from your standpoint. I could see it being difficult for a POU to meet annual requirements at 21.5, 23.5, 25 percent, 27 percent, it would be difficult for you to meet those safe harbor requirements and actually be retiring RECs in that straight line progression, retiring credits in a straight line progression. On the other hand, suppose POUs to a substantial extent relied on coming in with a showing about how they made reasonable progress for each year, that means every year you'd have these POUs coming in and making these showings. That would be burdensome for POUs, but it also seems like it would be burdensome for staff. I mean, we just had a discussion, I think, about how the pre-certifications have been somewhat delayed by lack of person power at the Commission, how would -- don’t you see there being a burden on the Commission staff, as well as on the POUs if you had this flood of requests for determination of reasonable progress from other than the safe harbor basis.

MR. HERRERA: Yeah. I agree, it would require more work and there is, as another commenter raised earlier, you know, that is a subjective call and this is something that we're throwing out as an option in this version of the Regulations, to provide some flexibility. I mean, if you go with this kind of straight line
trajectory that requires a certain procurement, each of
the intervening years of the compliance period, then,
that could be onerous for some POUs to satisfy, in which
case, then, would you find them in violation each of the
intervening years for not making reasonable progress? Or
would you provide the flexibility to let them demonstrate
that they tried to make reasonable progress, but things
fell short? And so, as a result, they weren't able to
procure as much as they needed to meet that straight line
trajectory.

MR. PEDERSEN: I agree, having annual
requirements of the straight line trajectory would be
burdensome, absolutely. Now, I guess that takes me to
what was my second question, and that was what was the
staff's rationale for proposing the procurement
requirements for the single calendar years 2016 and 2020,
instead of, as Tim suggested, proposing procurement
requirements for the entirety of period 2 and the
entirety of period 3?

MR. HERRERA: I think that was the intent there
was just to provide some flexibilities to POUs. I'm not
sure what Tim had in mind, he's still here in the crowd
and I'm looking at him, so maybe he can step forward, but
just to clarify his comment there. But I think staff's
position was that, by only measuring compliance in the
last year that it provided POUs discretion in the early
years to do what they needed to do, to make sure they
were in compliance by the end of the compliance period,
and then, of course, we had to address this issue of, you
know, reasonable progress in the intervening years
sufficient to get them to that compliance point, and it
was in thinking about that that we decided, well, perhaps
if the POUs fell short in a given intervening year, that
there could be a good reason as to why they did that, and
that if they could explain that to us, perhaps that would
be a way of showing, you know, reasonable progress.

MR. PEDERSEN: Okay, thanks a lot, Gabe.

Actually, on the excess procurement part, I don't think
the way you've written up the Regulation as it stands
right now actually provides for year to year carryover
excess procurement, and the Regulation doesn't provide
for that provision of retiring them, for annual
retirement. So it might be helpful if -- I don't know
how you feel about getting something to us that would
express this concept, but if we could get something in
writing that we could comment on, that would probably be
helpful because there does seem to be a difference in the
way it's written and the way you just explained it. But
those are my questions and I appreciate it, Gabe. Thanks
a lot.
MR. HERRERA: If you have comments on that point or some clarification to the proposed language, you know, we welcome that input.

MR. PEDERSEN: Okay. Thank you.

MS. ZOCCHETTI: Thank you, Norman. Before we go to any other callers or on the line, Randy Howard would like to address the group again from LADWP.

MR. HOWARD: Thank you. Norm's question kind of raised some additional question for me and so I just wanted to pose it, I kept thinking it was going to get answered in that dialogue back and forth, and I didn't quite hear the answer. The question in that discussion under the Section 3206 under (a)(1)(C), RECs need to be retired within 36 months of the generation month. Is that a WREGIS requirement?

MS. ZOCCHETTI: That's a statutory requirement.

MR. HERRERA: That's in statute.

MR. HOWARD: That’s in the statute. Because it is a little bit of a challenge when you look at that last compliance period that's a four-year compliance period, so there is a challenge, but it's a statute requirement for the retirement, okay. That was just the question I had, thank you.

MS. ZOCCHETTI: Thank you. Theresa, do we have anyone else on WebEx? Okay, how about -- could we open
the phone lines, then? Thank you. Callers, we are
unmuting everyone's phones. You are on the audio at the
Energy Commission. Yeah, mute again. So those of you
who have called in and that are on the phone, we were
opening the audio lines, however, we could hear lots of
conversations going on, so we would ask now that you mute
your individual phones. And can you call them one-by-
one, Theresa? Can you tell who wants to speak? I guess
there are some, though, that might not have Internet
access. So we'll just ask that you, in an orderly
fashion if you can, as best you can, to respond one at a
time and mute your individual phone if you are not
speaking, and we'll go ahead and re-open the audio lines
at this time. Are we open, Theresa? Not yet, standby.
Okay, I guess that's a silly question -- you are open and
we can hear you. So the first caller? Everyone on the
phone, we can hear you at the Energy Commission. And so
please state your name -- we have an M. Wong speaking?
Excuse me, hello? Mr. Wong, excuse me? We're not going
to be able to take audio comments, then. We have tried
that. They apparently can't hear us. Mr. Wong? Sorry
everyone. Hello? Is there anyone on the phone lines
that would like to comment at the Energy Commission's
workshop on the POU Regulations? We opened the lines,
but we had a lot of folks talking and apparently they

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could not hear us. We're giving it another try. Hello, is that someone on the line? Okay, going once. Hello? If someone is speaking, we are not able to hear you. Please make sure that your individual phone is unmuted if you are trying to call in. Well, we are going to go ahead and close the session, then. I apologize to callers that have been perhaps unable to call in. Please know that we would accept your comments in written form, of course, and we apologize if our technical difficulties have not made it possible for you to participate in this workshop, but we appreciate your time. I would like, then, to let you know that we will -- excuse me, do we have a caller? Let's just go ahead and mute the lines, please. Thank you. We will consider your requests to extend the comment period and let you know on the Renewables List Server, we will probably send out a revised Notice, that's what it would look like, we definitely see that the majority of you would like it extended another couple of weeks.

Also in the spirit of a lot of the requests that we received to have meetings with many of you today, this afternoon, and those of you that have expressed the desire to meet with staff before the end of the comment period, what we'd like to do, what we'd like to offer as kind of an in between is that we have reserved this room.
for the whole day and we know some of you have flights
and so forth, but for those of you that would like to
stay, rather than having individual meetings with parties
and staff, we're going to try to stagger meetings and
find conference rooms, we think it might be a good idea
if you all agree that anyone that would like to just have
kind of a roundtable chat with staff this afternoon after
lunch, just come back here, we'll reconvene, say, at 2:00
if that works for everyone, it's almost 12:30, and we can
chat for however long you need to, I mean, within reason,
and does that seem like something that parties would like
to take advantage of? Raise your hand, maybe, so I can
make sure. Okay, great. And then that doesn't mean
we're not going to invite future meetings and so forth,
but this might be a good way to kick off talking in some
detail on some of your concerns, so I think that's about
all I had to say. Commissioner Peterman has joined us.
Do you have any closing remarks?

COMMISSIONER PETERMAN: Again, I extend -- I'll
re-extend the offer, I did this morning in my opening
comments, if any of you want to meet with my office and
further discuss some of these issues, especially after
you have a chance to follow-up with staff, you're more
than welcome, just reach out to my scheduler. Thanks.

MS. ZOCCHETTI: Bawa, you did raise your hand.
Do you want to just discuss your question this afternoon?

Okay, thank you. Well, then, unless anyone else has anything to say, any other hands? Then I'll go ahead and close this meeting, whatever the right word is, and have a nice lunch. There are a couple of restaurants if you go down Q Street, or, excuse me, R Street, follow the railroad tracks, there's a Mexican restaurant and a LeBou Deli right there. We have on our second floor a little deli, as I mentioned. So it is almost 12:30. Let's come back at 2:00. Please have an enjoyable lunch and we'll see some of you this afternoon. Thank you.

[Adjourned at 12:18 p.m.]