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PGE Comments LTR for POUs

Additional submitted attachment is included below.

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California Energy Commission
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1516 Ninth Street
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Re: Pacific Gas and Electric Company Comments on the Implementation Proposal for Renewables Portfolio Standard Long-Term Procurement Requirement for Local Publicly Owned Electric Utilities

Pacific Gas and Electric Company (PG&E) welcomes this opportunity to provide input on the California Energy Commission's (CEC) Proposal for Renewables Portfolio Standard (RPS) Long-Term Procurement Requirement (LTR) for Local Publicly Owned Electric Utilities (POU).

I. Summary of Recommendations

PG&E appreciates the CEC's efforts to seek input on the implementation of the long-term procurement requirement (LTR) in the RPS program established by provisions in Senate Bill (SB) 350. PG&E recognizes the complexity of implementing the LTR. While it appreciates the CEC's thorough consideration of options to implement SB 350, PG&E wishes to highlight that the LTR provisions and implementing regulatory decisions pursuant to SB 350 apply to all load-serving entities (LSEs) in California.[1] Additionally, as noted in the CEC staff white paper, the CPUC adopted Decision (D.) 17-06-026 on June 29, 2017, implementing the RPS-related provisions of SB 350 for all CPUC-jurisdictional retail sellers (including investor-owned utilities (IOU), community choice aggregators (CCA), and direct access (DA) providers). To that end, PG&E urges that the CEC's implementation of the LTR closely follow the CPUC's implementation of

[1] *See* Cal. Pub. Util. Code § 399.30(d)(1) (incorporating by reference the LTR applicable to retail sellers subject to the jurisdiction of the California Public Utilities Commission (CPUC) and making it equally applicable to POUs).

these important provisions to ensure parity in regulations and enforcement procedures for all LSEs. PG&E provides the following answers to the discussion questions presented in the CEC staff paper.

Topic 1: Long-Term Procurement Implementation Options

Discussion Questions

1. *Do both implementation options effectively implement the long-term procurement requirement? Explain.*

   PG&E believes Option 2 (Dependent Compliance) more effectively implements the LTR since it establishes a direct link between the requirement, RPS procurement, and portfolio balance requirement (PBR). For this option, the LTR is implemented as a condition that must be satisfied before procurement can be counted toward the RPS procurement and PBR. This interpretation is consistent with the CPUC's implementation of the same statutory language, in which the CPUC concluded that a failure to meet the LTR forces failure to meet the general RPS procurement requirements.[2]

   Option 1 can lead to outcomes that are not consistent with the LTR established by SB 350, since the RPS procurement and PBR requirements can be achieved without the LTR having been met.

2. *Which implementation option best supports the state's 100 percent clean energy policy? Explain.*

   Option 2 (Dependent Compliance) will best support the state's 100 percent clean energy policy, since it best implements the intent of the LTR.

3. *What reasons (e.g., policy, factual, financial, practical, legal) support the independent compliance LTR implementation for POUs? Explain.*

   PG&E does not support Option 1 (Independent Compliance) LTR implementation option for POUs.

4. *What market impacts, if any, could result if the CEC implements the LTR for POUs as the independent compliance option? Explain.*

[2] D.17-06-026, p. 11.

PG&E believes there will be market impacts if the CEC implements the LTR for POUs as the independent compliance option, since different portions of the market would be subject to compliance rules of varying risks. Energy suppliers may be able to offer lower contract prices to POUs since they will not need to price as much of the LTR compliance risk into their bids. This imbalance in risk profiles of market participants will impact market prices. As a result, this may allow POUs to have lower-cost portfolios than LSEs regulated by the CPUC.

5. *Are there alternative implementation options that are less burdensome and sufficiently effectuate the purpose of the statute? Explain.*

   PG&E does not have any other options to suggest at this time.

Topic 2: Proposed Characterization of Long-Term Procurement

Discussion Questions

1. *For an amended contract to be considered long-term, staff proposes that the current term or at least one prior term have a continuous duration of at least 10 years. Can certain amendments to short-term contracts, in which the duration of the amendment is also short-term in nature but the entire amended term has a duration of at least 10 years, provide long-term planning stability? Explain.*

   PG&E believes that this is another instance where the CEC should align with the CPUC in its implementation of the LTR. As articulated in D. 17-06-026, "(a)dding short term extensions to short-term contracts does not provide either financial stability or planning stability."[3] PG&E agrees with the CPUC's conclusion that amending a short-term contract, in which the duration of the amendment is also short-term, does not provide long-term planning stability, since at each contract juncture the planning horizon is only short-term.

2. *What reasons (e.g., policy, factual, practical, financial, legal), if any, would support characterizing short-term amendments of short-term contracts as long-term, provided the entirety of the amended term is at least 10 years? Explain?*

   PG&E supports the CEC aligning with the CPUC's interpretation of this issue in D. 17-06-026.

3. *Should procurement from short-term assignments of contracts that were initially long-term in nature be allowed to count as long-term procurement when determining compliance with the LTR? Explain.*

[3] D.17-06-026, p. 19.

In discussing "repackaged" long-term contracts that are sold or assigned in pieces to multiple buyers that wish to use them to meet the LTR, the CPUC determined that SB 350 requires any such repackaged contract must be "truly long term, i.e., the retail seller's contract for its repackaged share of the generation has a duration of at least 10 years."[4] To ensure parity in regulations and enforcement procedures for all LSEs, PG&E recommends that the CEC's interpretation on this issue be consistent with the CPUC's interpretation. PG&E notes that the CPUC does not appear to have addressed directly whether a resale contract with a duration of 10 years or more may be met using multiple long-term contracts in the sellers' portfolio that have remaining durations during the resale period of less than 10 years. PG&E urges both the CEC and the CPUC to determine that any such resales would count as long-term as to the buyer.

4. *Should contract modifications that do not explicitly change the stated duration of the contract, such as changes to procurement quantities, changes in price, or assignment of certain rights or obligations under the contract, affect the contract's duration for purposes of determining the long-term nature of the procurement? Explain.*

   Contract modifications such as price or assignment of certain rights or obligations to a financing entity should not affect the contract's duration for purposes of determining the long-term nature of the procurement. However, changes in procurement quantities that increase procurement should be evaluated for purposes of determining the long-term nature of the procurement. The incremental portion of the contract should be evaluated separately to take into consideration whether that incremental portion is short or long-term. In general, PG&E has taken the position that in order for all volumes to be considered long-term, no contract quantity in the first 10 years of a contract should be more than 200% of the contract quantity in any other year. In order to avoid gaming, the CEC and the CPUC should adopt this or some similar threshold to allow reasonable shaping of delivery volumes over a long-term period to meet the commercial needs of both parties while excluding contract structures that are clearly designed to circumvent the LTR.

5. *Under what circumstances should a POU's assignment of its rights and obligations under a long-term contract serve to nullify the long-term nature of the contract? Explain.*

   If a POU's contract is assigned on a long-term basis to another POU or retail seller, the long-term nature should remain in place. As noted above, this is consistent with the CPUC's

[4] *Id.*, p. 21.

implementation for retail sellers. In addition, a consent to assignment for financing purposes should not impact the long-term nature of the contact.

6. *Do both treatment options for PCC 0 and historic carryover effectively implement both the LTR and the count-in-full provisions under PUC section 399.16? Explain.*

   Option 1 (characterizing PCC 0 procurement as long-term regardless of the associated contract duration) more effectively harmonizes both the LTR and the count-in-full provisions under Public Utilities Code Section 399.16 and is consistent with the CPUC's implementation of the LTR for retail sellers.[5] Option 1 is consistent with PG&E's recommendation of achieving parity in regulations and enforcement procedures for all LSEs.

7. *What market impacts, if any, could occur if the requirements for long-term procurement under the LTR differ for POUs and retail sellers? Explain.*

   PG&E believes there will be market impacts if requirements for long-term procurement under the LTR differ for POUs and retail sellers, since different market segments would be subject to varied definitions of long-term procurement. POUs may be able to enter into shorter term and likely lower cost contract extensions than retail sellers to comply with the long-term procurement requirement. Retail sellers on the other hand would still need to enter into likely higher priced long-term contracts or extensions to satisfy the long-term procurement requirement. Such policy differences would place a higher burden on retail sellers to procure new long-term resources, and in doing so create market imbalances and may thwart or delay achievement of the state's GHG goals.

8. *What other conditions need to be addressed to fully characterize the duration of procurement for the purposes of evaluating POU compliance with the LTR. Explain.*

   PG&E believes the CEC has addressed the full range of options to characterize the duration of procurement for purposes of evaluating POU compliance with the LTR.

Topic 3: Early Compliance with the Long-Term Procurement Requirement

Discussion Questions

1. *Does staff's proposal effectively implement the provisions of PUC section 399.13 (a)(4)(B)(iii) and section 399.30 (d)(1) for POUs? Explain.*

   While the timeline proposed for POUs electing early compliance with the LTR provides a much longer lead time and more flexibility than that provided to retail sellers at the CPUC,

[5] D.17-06-026, p. 12, fn. 20.

PG&E believes the longer timeline for making the early compliance election is reasonable given that the implementing amendments to the POU RPS enforcement procedures are still under development.

2. *Under staff's proposal, if a POU that elected early compliance for Compliance Period 3 is determined not to have satisfied the LTR for that period during the CEC's verification activities, which occur after the completion of Compliance Period 3, the POU may revise its election. What are the potential impacts if the early election is revised? Explain.*

   It will be difficult, if not impossible, to unwind the elections made by a POU after the verification activities for Compliance Period 3 have been completed due to the one-year limitation in WREGIS to unretire RECs. The CEC staff proposal allows the POUs to make its early election very late in the third compliance period, which should give the POUs enough time to evaluate possible verification risks prior to making its election. This long lead time to make the election would obviate the need to revise its election.

II. Conclusion

PG&E thanks the CEC for the opportunity to submit these comments and looks forward to continuing to work with the CEC and the CPUC on these important changes to the statewide RPS
Program.

Sincerely,

Jessica Melton