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BEFORE THE

CALIFORNIA ENERGY COMMISSION

In the matter of,	)
	) Docket No. 16-RPS-03
Amendments to Regulations	)
Specifying Enforcement	)
Procedures for the Renewables	)
Portfolio Standards for Local	)
Publicly Owned Electric	)
Utilities	)

LEAD COMMISSIONER PRE-RULMAKING WORKSHOP

ON RPS POU REGULATIONS

WARREN-ALQUIST STATE ENERGY BUILDING

1516 NINTH STREET

1ST FLOOR, ARTHUR ROSENFELD HEARING ROOM

SACRAMENTO, CALIFORNIA 95814

TUESDAY, SEPTEMBER 10, 2019

10:00 A.M.

Reported By:
Peter Petty

APPEARANCES

COMMISSIONERS AND COMMISSIONER ADVISORS PRESENT

Karen Douglas, Lead Commissioner

Kourtney Vaccaro, Advisor to Commissioner Douglas

Eli Harland, Advisor to Commissioner Douglas

Staff Present

Katharine Larson, Renewable Energy Division

Armand Angulo, Renewable Energy Division

Gina Barkalow, Renewable Energy Division

Gabriel Herrera, Office of the Chief Counsel

Mona Badie, Office of the Chief Counsel

Myoung-Ae Jones

Invited Panelists

Vidhi Chawla, Alameda Municipal Power

David Siao, Roseville Electric Utility

Jamey Stambler, Anaheim Public Utilities

Scott Hirashima, Los Angeles Department of Water & Power (LADWP)

Tanya DeRevi, Southern California Public Power Authority (SCPPA)

Justin Wynne, Braun Legal, for California Municipal Utilities Association (CMUA)

Susie Berlin, Law Office of Susie Berlin, for Clean Power Alliance (CPA)

Tim Tutt, Sacramento Municipal Utility District (SMUD)

Scott Tomashefsky, Northern California power Agency

APPEARANCES (CONT.)

Public Comment

Steve Uhler

Steven Kelly, Independent Energy Producers

Nathan Gallegos, LADWP (Via WebEx)

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P R O C E E D I N G S

SEPTEMBER 10, 2019 10:00 A.M.

COMMISSIONER DOUGLAS: Alright I'll start talking now because it's exactly 10:00. And if I wait too long, we'll be 30 seconds late.

So, good morning and welcome to everyone. I'm Commissioner Karen Douglas. I'm the Lead Commissioner, now, for Renewables here at the Energy Commission. And I'm really pleased to have the opportunity to engage with all of you as the Commission develops updates to the enforcement procedures for the Renewables Portfolio Standard, for local publicly owned electric utilities, which we usually just call the RPS POU regulations. And you'll probably hear me use that phrase way more than what I just read off.

The workshop notice explains that today's discussions will focus primarily on implementation of the RPS long-term procurement requirement.

Commission staff issued a paper on August 30th to help prime today's discussion and, hopefully, elicit meaningful input from all of you. So, I look forward to hearing your comments on the staff paper topics, and during the lightning round at the end of the day, when we'll give you all a chance to kind of go around the table one more time, and share what's on your mind, or something you think is important that hadn't come up in discussion, yet.

As always, I'm interested in hearing from the public comments, as well. And in the coming months we'll provide additional opportunities for stakeholder and public engagement, as we address the many other topics that are also going to be covered regarding the RPS POU regulations.

So, our hope and intent is to work collaboratively, but quickly, as we move forward with the goal of adopting regulations that will take effect during the end of Compliance Period 3. And staff will talk more about our hoped for and proposed timing, today.

And just a quick heads up, I am here all day. I will have to step out right before noon for something, and come back after lunch. But I'm here all day. If I miss something between 12:00 and whenever we break for lunch, that you really want me to hear, remember that for the lightning round or bring it up when we come back.

So, at this time, I'll go around the room and ask the panelists and, really, ask everyone to introduce themselves. So, let's start with the panelists in the room, and then go to the panelists on WebEx and the phone, and make sure we get to everyone else at the table, as well.

So, let’s see, Katharine, do you want to -- why don’t you take us through housekeeping and then you can get us going with introductions.

MS. LARSON: Sure. I actually have a slide on housekeeping, so I’m going to run up to --

COMMISSIONER DOUGLAS: Great, go ahead.

MS. LARSON: Now it’s on? Great.

We do have extra handouts on the back table, in case you didn’t pick up as you came in. That actually includes the workshop notice, agenda for today, the staff paper, the presentation, and a list of lunch spots that are in close walking distance for when we break for lunch.

For emergency evacuation procedures, please follow Energy Commission staff out the front door and to the right of us, to Roosevelt Park. You can just follow staff as we go.

We have restrooms as you exit the hearing room on the left. We also have a vending machine on the second floor, in case you need sustenance in the interim.

We are recording this meeting today via WebEx, and we’re also being transcribed by a court reporter, which will help us fully capture the comments and input that you provide today.

We'll also be accepting written comments through September 24th, at 5:00 p.m. We'll have a little more on how to do that at the end of the presentation. But we look forward to your engagement.

And I'll turn it back to introductions.

COMMISSIONER DOUGLAS: All right, great. You know, let's go around the table, if we could. That will just be easier for me. Do you want to start? Let's go this way and we'll start with Kourtney Vaccaro.

MS. VACCARO: Good morning. I'm Kourtney Vaccaro. I'm an Advisor to Commissioner Douglas.

MR. ANGULO: Good morning, everyone. I'm Armand Angulo, acting Division Deputy for Renewable Energy Division.

MS. LARSON: Hi, everyone. I'm Katharine Larson. I'm the staff lead for the RPS Regulations for POUs.

MS. BARKALOW: Hello. I'm Gina Barkalow and I'm a Supervisor in the Renewable Energy Division.

MR. HERRERA: Good morning. Gabe Herrera, I'm with the Energy Commission's Legal Office.

MS. BADIE: Hi. Mona Badie with the Commission's Legal Office.

MS. CHAWLA: Hi. My name is Vidhi Chawla, with Research Planning from Alameda.

MR. SIAO: Hi. My name is David Siao, with Roseville Electric. And thank you, Commissioner, for organizing this workshop.

MR. STAMBLER: Hi. My name is Jamey Stambler. I'm an Integrated Resources Planner for the City of Anaheim.

MR. HIRASHIMA: Good morning. My name is Scott Hirashima, with LADWP, Regulatory Compliance Group.

MS. DEREVI: I'm Tanya DeRevi, Director of Government Affairs for the Southern California Public Power Authority.

MR. WYNNE: Justin Wynne, outside counsel for the California Municipal Utilities Association.

MS. BERLIN: Good morning. Susie Berlin, outside counsel for the Northern California Power Agency and CPA.

MR. TUTT: Good morning. Tim Tutt from SMUD

MR. HARLAND: Eli Harland, Advisor to Commissioner Douglas.

COMMISSIONER DOUGLAS: Is there anyone participating by phone, WebEx or phone?

MS. LARSON: Not for the panel.

COMMISSIONER DOUGLAS: No. Okay, not for the panel, perfect. All right.

So, in that case, it looks like you've got the first presentation, Katharine.

MS. LARSON: Great, thanks. I'm actually going to run back up to the podium. It will make it a little easier. But don't be too alarmed to see me running back and forth throughout the day.

So, before we get started, I want to give a brief overview of the agenda. Which, as Commissioner Douglas touched on, we are focusing this workshop on the implementation of the long-term procurement requirement.

First, I'll give you a little background on the RPS, which will be very familiar to most of you. Then, we'll dive right in, into the implementation topics for the long-term procurement requirement. We'll talk about the next steps, including a lightning round for stakeholders to raise priority issues. We'll have a general public comment period at the end. And, finally, we'll adjourn after closing remarks.

So, first, a little background on the RPS which, again, should be very familiar to most of you. The RPS establishes progressive, renewable energy procurement targets for retail sellers of electricity and local publicly owned electric utilities, or POUs.

AS it was first enacted in 2002, the RPS targets only applied to retail sellers and POUs were required to adopt their own renewable energy or RPS goals and targets. In 2011, SBX 12 expanded the RPS to include POUs and set a target for all electric utilities in California to serve at least 33 percent of their retail sales from eligible renewable energy resources.

The RPS is jointly administered by the Energy Commission and the CPUC. The Energy Commission’s responsibilities include overseeing RPS compliance and enforcement for POUs, among others. And the CPUC is responsible for compliance and enforcement for retail sellers.

So, as part of our responsibilities for the RPS we adopt regulations specifying RPS enforcement procedures for POUs. We adopted our first regulations in 2013 and they took effect in October of 2013. June 2013, took effect October. I’m not going to say the whole title here because, as Commissioner Douglas mentioned, it’s pretty long.

We subsequently amended our regulations in 2015. We adopted the amended regulations in 2015 to implement legislative changes and to make clarifying changes, and they took effect in April of 2016.

Now, since we last amended our regulations, a number of pieces of legislation have affected the RPS program for POUs. I'm not going to go through all the details here. But notably, SB 350 increased the RPS requirements to 50 percent by 2030. It established a long-term procurement requirement, among many other changes.

And SB 100, last year, revised the RPS requirements to 60 percent by 2030.

We did conduct initial prerulemaking activities in 2016 to implement RPS changes from SB 350 in the RPS regulations. We issued draft regulatory amendments which here I'll refer to as the August 2016 draft, because the title is still pretty long. And we held a public workshop on those draft amendments.

However, we subsequently suspended our prerulemaking activities until 2019. We do expect that the upcoming update to the regulations will cover the full range of statutory changes affecting the RPS, however.

So, as we've touched on, one of the bigger changes that we anticipate addressing in the forthcoming update to the regulations is the implementation of the long-term procurement requirement. I say it's a bigger change because it's pretty complex and it affects all POUs, as well as all retail sellers.

So, as amended by SB 350, Public Utilities Code

399.13(b) requires at least 65 percent of the procurement a retail seller counts for its RPS compliance, the RPS requirements of a compliance period to come from its contracts of 10 years or more in duration, its ownership or ownership agreements.

And PUC 399.30(d)(1) makes this requirement applicable to POUs and directs governing boards to adopt consistent requirements.

The long-term procurement requirement takes effect in January 2021, so for compliance period four. But there is a voluntary early compliance process, as provided in PUC Section 399.30 (a)(4)(B). This could be desirable because SB 350 also revised access procurement rules that take effect in 2021 unless a retail seller complies early with the long-term procurement requirement, beginning in 2017.

And again, PUC Section 399.30(d)(1) makes this requirement applicable to POUs. Rather, this optional process applicable to POUs and requires them to adopt consistent requirements.

So, it sounds simple, right? It's pretty easy. No. Again, we think long-term procurement requirement implementation is a big one for the next update. And so, even though we are planning to address the full range of statutory changes in the upcoming update to the regulations, we do want to focus today on implementation of the long-term procurement requirement and get additional input from stakeholders and the public.

So, the August 2016 draft did include proposed amendments to implement the LTR, but as I hinted at a few events have transpired since then.

So, first, we got public comments on our August 2016 draft, which included comments on how we would implement the LTR. In addition, the CPUC implemented the LTR, the long-term procurement requirement, for retail sellers in 2017, in a manner that differs in part from the way that we proposed in the August 2016 draft.

Now, statute doesn't require POUs and retail sellers to have the exact same implementation for this requirement, but it is a reasonable alternative for us to consider for POUs.

And, as well, there have been a number of additional implementation issues that have come up that we didn't address specifically in the August 2016 draft, that we'd like to do so, now.

So, to help facilitate public input, we developed a staff paper, which you all should have in the back table, and discussions questions to facilitate stakeholder and public input.

I just want to give a little more detail on the workshop format today. The format is organized into three, primarily three topic area discussions. In each topic area, which are implementation of the long-term procurement, how we characterize long-term procurement, and the voluntary early compliance process, for each of these topics we'll have a staff presentation, a roundtable discussion with stakeholders, and then a public comment period for each topic area.

I want to briefly go over the rules for public comment. So, during the roundtable discussions themselves, Gina Barkalow and I will be moderating and keeping track of time.

For the public comment periods, comments will be limited to three minutes per period. Please turn in a blue card to speak, to Greg. He has a stack. Greg is over in the corner. Hopefully, you all can see him. He waved. He has a stack of blue cards in front of him. There's also blue cards on the table, as you enter the hearing room.

If you want to speak to a particular topic, please indicate on the topic or question that you're interested in, so we can help best direct the flow of the conversation.

Please come to the podium when we call your name, if you're commenting in the room. And, please, state your name and affiliation for the court reporter. If you have your business card, please provide that as well.

If you're commenting via WebEx, please use the raise hand feature. We'll unmute you during your turn. And again, please state your name and affiliation for the court reporter. You can alternatively type a comment into the chat box and we'll read it aloud for the record.

And any commenters on the phone, who aren't on WebEx, we will unmute all the lines at the end. So, please unmute your phone only to ask a question.

As I mentioned, we'll also be accepting public comment through September 24th, at 5:00 p.m.

Okay, with all that said, let's dive into the first topic. So, what we're trying to address here and what we're trying to answer here is how the long-term procurement requirement is calculated and how compliance with that requirement affects compliance with the other RPS procurement requirements.

So, the slide here has excerpts from 399.30(b), which establishes the LTR for retail sellers. That's the one on top. And 399.30(d)(1) which makes this requirement applicable to POUs.

The underline refers to the portion of the statute that we're focusing on in topic one. So, for the first part it's the meaning of the procurement, 65 percent of the procurement that's counted toward the RPS requirement of the compliance period.

First, I want to mention what the current RPS procurement requirements are prior to the effective date of the long-term procurement requirement. So, POUs were and are subject to two procurement requirements. The procurement target, which refers to the amount of eligible renewable energy generation a POU must retire and apply for a compliance period to meet the statutory targets, and the portfolio balance requirement, or the PBR, which consists of minimum and maximum limits of different procurement types. The PCC 1, or portfolio content category 1, minimum, and the PCC 3 maximum.

Although these procurement targets target PBR are related and required for compliance, compliance with the requirements is evaluated separately and is independent. So, a POU can meet its RPS procurement target and fail to meet the PBR or vice-versa. The same is true for retail sellers.

I do also want to mention that prior to SB 350 retail sellers were, and are, continue to be subject to a minimum long-term contracting requirement for compliance period between 2011 and 2020. That requirement must be met in order to count short-term procurement towards their RPS procurement targets. The requirement never applied to POUs and will be replaced by the LTR for retail sellers beginning in 2021. I just want to mention that because it's a different requirement that POUs were not subject to and operates a little differently than the current RPS requirements for POUs.

So, we've identified two potential options to calculate the LTR, in a similar way, but they differ in how LTR compliance, long-term procurement requirement compliance, affects compliance with the procurement target and the PBR.

The first option, which we call the independent compliance option, is the same approach that we proposed in the August 2016 draft and it's similar to the current implementation of the RPS procurement requirements.

In this independent compliance option, compliance for the LTR is evaluated separately and has no impact on compliance with the target or the PBR. The second option, which is the dependent compliance option, is similar to the CEC's implementation for retail sellers and establishes compliance with the LTR as a precondition for compliance with the procurement target and the PBR. We'll go into a little more detail on these options in the next few slides, so you can see how they differ.

The asterisk in the coming slides identifies when we are proposing something different from the August 2016 draft so, hopefully, that can help you keep things straight.

I do also want to mention that these are not necessarily the only implementation options for the LTR, but they are the two main ones that have been identified to date. And so, in your comments, we’re certainly open to hearing other ideas.

All right. So, let’s first talk about the independent compliance option which, again, is the same approach from the August 2016 draft. We propose to calculate the LTR as 65 percent of the lesser of the procurement target or the quantity of RECs that are applied for compliance because this is the procurement that is actually counted toward the RPS requirement for a given compliance period.

We then propose to evaluate compliance with the LTR by comparing that 65-percent quantity to the number of long-term RECs that are applied. It seems pretty straight forward.

In this option, the independent compliance option, a POU does have to satisfy the LTR, the procurement target, and the PBR to meet the RPS requirements of the compliance period. But compliance with each requirement is independent. So, you have to satisfy all three to meet all your requirements, but you could not satisfy one and still meet the others.

If a POU applied insufficient long-term procurement to meet the LTR in this option, it could be subject to enforcement based on the processes in Sections 3208 and 1240 of the RPS regulations, even if it meets the other two procurement requirements. It could be subject to enforcement if it incurs a deficit in the LTR requirement.

How would this affect excess procurement? Well, as I mentioned a couple slides ago, we propose calculating the LTR based on the lesser of the procurement target or the total RECs that are applied for compliance. So, any RECs that are retired and not applied for compliance wouldn’t be subject to the 65-percent LTR because they are not actually counted for RPS compliance in that compliance period.

If any of those RECs retired and not applied are eligible for banking, they would retain their classification as long- or short-term, and be subject to the LTR and the compliance period in the future during which they’re actually applied.

However, we do propose clarifying that a POU must meet all of its RPS procurement requirements, including the LTR, in order to actually bank excess procurement. So, in other words, excess procurement would refer to procurement in excess of the amount needed to satisfy all RPS procurement requirements. This is a clarification that is really based on the plain language meaning of the word “excess”.

Now, if a POU incurred a deficit in the LTR, what options would it have? For this independent compliance option, we believe a POU could adopt and apply cost limitations that considered the cost of long-term procurement. Such cost limitations could then be used to address a deficit in the LTR, subject to all statutory and regulatory requirements for using cost limitations.

However, as we discussed in the staff paper, we believe that a POU cannot use either the PBR reduction or the delay of timely compliance optional compliance measure to address a deficit in the LTR. In particular, the delay of timely compliance optional compliance measure is a procurement requirement that applies to the requirements of Section 399.15. Whereas, the long-term procurement requirement is established in an entirely different section, Section 399.13, so it wouldn’t be covered by this measure in our interpretation.

Okay, let's move on to the dependent compliance option. So, the second option that we discussed for implementing the LTR is the dependent compliance option. Which, again, is similar to the CPUC's implementation for retail sellers, but it differs from the approach in the August 2016 draft.

As in the first option, we're proposing to calculate the LTR as 65 percent of the lesser of the procurement target or the procurement that's applied.

Evaluating compliance with the LTR starts out in exactly the same way as in option one by comparing the LTR with the quantity of long-term RECs applied. However, in this option, if the LTR isn't met short-term RECs that were applied would be disallowed until long-term RECs applied account for 65 percent of the total RECs applied for compliance.

So, in other words, we'd adjust the total number of RECs that are applied by disallowing short-term RECs in order to bring the RECs applied into compliance with the LTR. That's a mouthful.

So, under this dependent compliance option, LTR compliance is always needed before calculating compliance with the procurement target and the PBR. Compliance with the LTR in effect determines how many

RECs can count toward the other procurement requirements.

A POU that has insufficient long-term procurement or, rather, applies insufficient long-term procurement can never incur a deficit in the LTR because compliance with that requirement always is required. But it could incur a deficit in its procurement target and/or its PBR based on the disallowance of short-term RECs that are needed to bring it into compliance with the LTR.

And if the POU does incur a deficit in the procurement target of the PBR for this reason, it could be subject to the enforcement processes in the regulations.

So, as in the independent compliance option, we’re proposing that RECs that are retired and not applied wouldn’t be subject to the 65-percent long-term procurement requirement. If they are eligible to be banked as excess, they would retain their classification as short- or long-term and be subject to the LTR in the compliance period during they’d actually apply.

And again, we’d make the same proposed clarification that you need to satisfy all your RPS procurement requirements in order to bank excess procurement.

So, as I mentioned, in this option, the dependent compliance option, a POU can't incur a deficit in the LTR. So, optional compliance measures aren't applicable to that requirement. However, if a POU incurs a deficit in the procurement target, or the PBR, as a result of the disallowance of short-term procurement to bring it into compliance with the LTR, a POU could potentially use the delay of timely compliance, optional cost limitations, or PBR reduction optional compliance measures as applicable for these requirements subject to the statutory and regulatory requirements.

So, this table just highlights the differences between the two options, the independent and dependent compliance options. The first row looks at impacts on the other RPS procurement requirements. Again, in the independent compliance option there's no effect. LTR compliance has no effect on the other two requirements.

On the dependent compliance option, LRT compliance is required before evaluating the target in PBR and does have an effect on compliance with those requirements.

If a POU applies sufficient long-term procurement -- and sufficient procurement to meet all of its procurement requirements, there's no difference in these two implementation options. But differences do arise if a POU applies insufficient long-term procurement.

The second row looks at the implications if a POU applies insufficient long-term procurement to meet the long-term procurement requirement.

And the third row looks at possible enforcement actions.

So, under the independent compliance option, a POU can incur a deficit in the LTR if it applies insufficient long-term procurement. And the Executive Director could issue a compliant for failure to meet the LTR if that deficit isn’t excused by the cost limitations measure.

For the dependent compliance option, again a POU cannot incur a deficit in the LTR, but it could incur a deficit in the other requirements based on the disallowance of short-term RECs to bring it into compliance with the LTR. And if those deficits aren’t otherwise excused, the Executive Director of the Energy Commission could issue a complaint for failure to meet the procurement target and/or the PBR.

So, I’m going to briefly summarize results from a few example calculations that illustrate the similarities and differences between these options. The example calculations are described in detail on the staff paper that you have before you, so I'm not going to actually walk through every step. It's a little tedious and might bore you, but we can certainly come back if you have any questions.

I do also want to mention that we reissued the staff paper at the end of last week to correct two, three minor typos in Tables 2 and 5. They didn't actually change the result of the calculation, but they may have made the steps a little harder to follow. But the copy that you have in front of you is the revised version.

So, in this first example, we'll consider a POU that has -- that retires long-term procurement. It applies long-term procurement in excess of the LTR, so it meets the requirement.

For simplicity, we'll assume all procurement in this example is PCC 1, so we don't have to worry about the PBR.

In this example, the POU applies the minimum amount of long-term procurement to meet the LTR, so 65,000 RECs for a procurement target of 100,000 RECs. It applies short-term RECs to the remainder of its procurement target. Because it has applied enough procurement to satisfy all its procurement requirements, the compliance outcomes don't differ between the independent and dependent compliance options.

After meeting its procurement requirements, the POU's left with an additional 10,000 long-term PCC 1 RECs, and 15,000 long ---, short-term PCC 1 RECs that may be eligible for banking of excess procurement. If they are banked, they will be subject to the long-term procurement requirement in the period in which they're applied.

In the second example, we'll look at a POU that applies insufficient long-term procurement to meet the LRT. Once again, the procurement target for this POU is 100,000 RECs. In this case, it applies 50,000 long-term RECs and 50,000 short-term RECs toward the target. For simplicity, again everything is PCC 1.

Under the independent compliance option, the POU incurs a deficit of 15,000 RECs in the LTR. So, straight comparison between the long-term RECs applied and the LTR. But it does meet its RPS procurement target and its PBR.

In the dependent compliance option, the POU satisfies both the LTR and the PBR, but it incurs a deficit in the procurement target of a little over 23,000 RECs because some short-term RECs that it applied were disallowed to bring it into compliance with the

LTR. And you can see, it's a greater deficit than in the independent compliance option.

The last example that we'll look at is very similar to the second one, except that the long-term applied RECs are now a mix of PCC 1, PCC 2, and PCC 3. So, we do have to think about PBR. All the short-term RECs applied are PCC 1.

So, once again, the POU ends up starting out with 15,000 RECs short of the LTR, 15,000 long-term RECs short of the LTR.

Under the independent compliance option, the POU incurs that deficit in the LTR, but it does comply with the target and the PBR.

Now, under the independent -- excuse me, under the dependent compliance option, the POU is again required to satisfy the LTR, which results in the disallowance of approximately 23,000 RECs to come into compliance with the LTR. We then calculate the PCC 1 minimum based on the RECs that were actually applied in accordance with the LTR and then compare it to the PCC 1 RECs applied.

Now in this case, unfortunately some of the POU's short-term RECs that were disallowed to bring it into compliance with the LTR were PCC 1, so it no longer has enough PCC 1 RECs applied to meet the PCC 1 minimum.

The POU then incurs an additional deficit of almost 6,000 RECs, PCC 1 RECs in the PBR.

So, that's it for my presentation, outlining the different options for LTR implementation. I'm going to come back over to the table for a roundtable discussion. We think we'll be able to address a number of questions within the roundtable discussions, but if there are any additional questions after that point, we encourage you to include it in your comment at the end, public comment following the roundtable discussion.

Sorry, I should have given an update. I just found the questions. Or, rather, I borrowed Gina's.

So, thank you all at the table for joining us, for this first panel. I want to mention, we really would like this to be an open discussion, active and free flowing.

So, I don't want to, you know, call on you all individually. I want this really to be -- I would like you to respond as you see fit and, hopefully, that will spur additional discussion. But, yeah, I'm really looking forward to this conversation.

So, the first question that we'd like to tee up is: Do both the implementation options that I've just outlined, the independent option and the dependent compliance option, effectively implement the long-term procurement requirement.

MR. WYNNE: So, this is Justin Wynne for CMUA. And we thought it might be useful, before we jump in to responding to the first question, to discuss some overarching considerations and maybe principles that we think should guide all of the implementation issues.

And I think one of the first ones that's important to keep in mind is that the long-term procurement requirement poses some unique challenges that don't really apply in the same way to like the portfolio balance requirement. And, primarily, because the process for selecting, negotiating and executing a long-term contract is very lengthy. I mean, it would typically take over a year just for that.

And if you are selecting a project that is under development, you may then have multiple years from the execution date before you're actually getting a delivery.

Because of that process, a POU is extremely limited if they need to get more long-term procurement over a short amount of time. Whereas, if you're looking at just a shortage in a bucket one requirement, you might be able to accomplish that even in a few months. But that's just not realistic for the long-term procurement requirements.

And so, it's very important that as you're going through this to use a common sense approach to implementing these regulations and it's not hyper technical. And as you're considering what the structure of the regulations should be, we should keep the intent of the statute in mind and make sure that it's serving that and it's not just imposing a technical requirement, and then a POU is coming out of compliance just because of something that's happening that's outside of their control.

As far as the legislative purpose, I know that the -- if you go back through the committee analyses, they do reference that there was a very lengthy stakeholder process devoted to this issue, in particular. And in the staff report you note that long-term planning is an important goal.

But in the stakeholder process, one of the key things that was consistently brought up was that ten years is necessary, a 10-year commitment is necessary to secure financing for a new development.

And so, I think those two things you should keep in mind is as you're considering how to structure this regulation - does it support either providing adequate financing to new resources or is it supporting long-term planning.

And as you're looking at the long-term planning side of this, I think it's also important to keep in mind that the primary mechanism to make sure that the State is on track to meet its long-term RPS and carbon reduction goals is the IRPs. And those aren't just looking at RPS. They're looking at all your resources in a comprehensive way, looking out into the future.

This requirement is backward looking. It's only focused on RPS. And so, it's an important tool, but I don't think it should be viewed as the primary mechanism to ensure that the state's on its long-term goal to meet the different energy policies.

MS. DEREVI: This is Tanya DeRevi with SCPPA. I will also add on, although it wasn't a state issue during SB 350 negotiations on financing for renewable projects, for the purposes of meeting RPS, we also need to be cognizant when it comes to public sector utilities of impacts that congressional actions can have for renewable projects. There's twofold.

One is the attacks on municipal bond financing that has been offered up both by the then Obama administration, and by the Trump administration to actually eliminate tax-exempt municipal bond financing, which would have had significant impacts for public power utilities, and anything else that is funded with public dollars, like schools and hospitals, for example.

One of the other issues that we see have an impact on renewable procurement for POUs is congressional activity as it relates to tax extenders on energy issues. Wind and solar are the top two that come into mind. When there is a proposed phase out, phase down or, potentially in the future, a phase up of tax credits for wind and solar in particular, we will see an uptick in projects that are submitted as part of our annual RFP process to procure renewables for our members here at SCPPA. And just want to be mindful of things that are outside of the control of POUs, which we'll get into a little bit later on that front, as well, when it comes to legislative impacts for renewable procurement in California.

One issue we also wanted to flag for the purposes of this discussion is really the need for flexibility for POUs. This is particularly acute when compared to, for example, the big three IOUs in California, for our small- and medium-sized POUs in the state that face unique challenges because of two key risks. One is the variability in generation, especially when it comes to intermittent renewable resources, like solar and wind. And the other is the variability in load for small and some medium-sized POUs across the state.

Some smaller POUs often have a limited number of resources in their portfolios. And so, a failure of even just one project could potentially put them out of compliance for the purposes of the RPS. And we encourage the Energy Commission to remain cognizant of that as we move forward with this implementation process.

They may also have limited additional resources in their portfolios to protect them from this risk. So, we are very cognizant of not wanting to expose POUs ratepayers, which is the public, we don’t have any shareholders, to excessive costs when it comes to RPS implementation.

Additionally, more so from Northern California, because those of us in Southern California are not blessed with plentiful supplies of rainfall, are POUs that are dependent on long-term, for example, large hydro power resources, where there can be dramatic fluctuations on multi-year bases either because of a drought, or because of a surplus of rainfall for hydro power output. And that could put pressure upward or downward on renewable implementation going forward, depending on a dry year or a wet year for an extended period of time, especially.

For small POUs, and we see this also with SCPPA, since we do have four, it can be difficult to find renewable contracts for a small quantity of renewables for them. And that is also something, typically, you'll see for the purposes of NCPA and SCPPA, joint ownership projects. We do a lot of that at SCPPA, especially for our small POUs, so that they can meet the RPS. That often comes with delays because of the negotiation process involved in join ownership projects. It can also come with delays because of the transparency needed when approving governmental entity contracts long term. You have to go through multiple processes, both at SCPPA, and then back home at the individual POUs. Some of which also require city council approval, for example, and that often does take quite a bit of time.

The second issue that we wanted to touch on was the variability of load. So, POUs, especially our smaller ones, but also some of our medium-sized ones may have large customers that come into their service territories that can significantly spike their load needed. A big manufacturing facility or something like a Wal-Mart, for example, that could come into a small community. That complicates RPS procurement long term.

There can also be the reserve, where a large customer can leave a service territory, as well. So, that’s also something we wanted to ensure the Energy Commission was cognizant of.

So, procuring long-term resources for these customers and these types of POUs can be challenging, particularly if the customer, for example, doesn’t commit to stay or may leave within that ten year time period.

Actions outside of a POUs control was the last bit we also wanted to talk about. Primarily, there are three primary reasons why a POU may unexpectedly be short on, or short on long-term procurement generally due to events that are completely outside of the control of the POU.

One is the failure or delay of a project that is under development. We have seen that happen.

Number two is an existing, long-term resource that goes offline due to failure with the resource itself.

And number three can be an unexpected load growth or departure. An example of this that could become quite acute in the future is the plus up due to transportation electrification, as the state pushes forward with its significant EV goals.

MS. BERLIN: So, I’m going to reiterate everything they said. No, I’m not. I’m just going to agree. This is Susie Berlin for NCPA. I agree with all the points that were just raised as they are common to all the POUs. And do want to emphasize some of the smaller POU points, especially with regard to the variability of load and the need for flexibility and implementation. The joint powers agreements are a very good way for some of these smaller utilities to be able to get the resources that they need. But those also come with some complications that do require looking at it through a different lens in order to ensure that we can get the best resources, at the best price, for all of the customers. And, so, we really encourage that to be a focal point when we're talking about implementation.

Another concern that is wrapped up in this entire discussion is long-term commitments for large amounts of resources, and the variability and, then, potential new mandates that are resource specific and how that can complicate planning during any 10-year profile, especially for agreements that we're currently working on looking into for the future.

MR. TUTT: This is Tim Tutt from SMUD. And, you know, the first thing I think I'd like to say is I think that the staff report was very well written. It was concise, and clean, and easy to read and easy to follow, so I appreciate that. Thank you.

I guess what I would say is I agree that flexibility is absolutely necessary. It’s actually a benefit or a goal of both the utility and the renewable contractor to have a long-term contract. It provides certainty for the renewable contractor and it generally provides for a little bit of lower price for the utility in the RPS procurement they engage in, which is a win for both sides, really.

So, understanding that there is this obligation in state law that we’re trying to implement, I think the one thing -- the only other thing I would say; with respect to question two up there, supports the state’s 100 percent clean energy policy. I’m not a hundred percent sure that anything that we’re doing here in the RPS needs to go to address the hundred percent clean energy policy.

But just for purposes of argumentation there, I think the option in which some procurement might be disallowed would tend not to support moving to a hundred percent clean energy policy. I’m kind of not in favor of procurement being disallowed as part of implementing this particular provision. Thanks.

MR. WYNNE: So, I think maybe we could dive in to actually responding to the first question up there.

And I think what I'd say at this point, we're still discussing this. I think there are some preferences, but we certainly don't have a final position between the dependent and independent option.

I do think that regardless of which option is selected, it would be important to ensure that all of the option compliance mechanisms are available, cost implementation and delay of timely compliance. And I'll discuss that more in a second.

But then, also, making sure that there's no double penalties. You've talked about how this same megawatt hour could be a quantity violation, a portfolio balance violation, and a long-term procurement violation. So, I think we need to understand how you interpret that, but also recognize the limitation of your authority here and, that ultimately, ARB would be the one that would be interpreting how that translates into a penalty.

And so, that's something that I think would be helpful to get some guidance on today.

As far as the independent compliance option, I do -- I don't agree with the interpretation in the staff report that we should write off the delay of timely compliance provisions because of the language in there.

First, I certainly don't think there was an intentional drafting decision in the process of developing this statutory language to exclude a POU or retail seller from using delay of timely compliance.

I think the reason that 399.13 was selected is because that's where the prior long-term language was, not because it doesn't relate to the other provisions. So, I don't think it was an intentional drafting decision.

Then, when you look at the actual provisions under delay of timely compliance, they line up very well with a long-term procurement reduction. So, if it's a permitting failure, interconnection, transmission, those are exactly the types of things that for a long-term project would cause you to not be able to bring it on in line.

So, it's something I think we should devote more time to in our written comments, but I do think that it's not something that we should just write off. So, it wouldn't necessarily be something that we couldn't have under the independent compliance.

And I think it might be helpful to get some input from the actual POUs that are here.

But on the dependent compliance option, I think there's a lot of concern that we'll be losing or compounding a violation or a noncompliance because you might be taking away short-term RECs that might otherwise be there.

And I think a far more likely scenario for a POU being out of compliance with its long-term procurement requirement would be after the fact maybe the CEC interprets an existing contract that the POU believed or asserted was long term, was no longer long term. So, now, they're out of compliance. Those megawatt hours are reduced.

If they fall below the 65 percent, I believe under the dependent compliance option, because of the ratio being applied you may wipe out a bunch of their short-term RECs.

And so, I think it's helpful to not think about this as being something you do ahead of time, where you're procuring a whole bunch more short-term RECs. This would be more it's after the fact, there's nothing you can do, and all of the sudden you're going to not only lose the long-term RECs that you believed you'd have access to, but you're going to lose additional short-term RECs, as well.

MS. LARSON: Any other thoughts right now? No? So, I think we might be able to speak a little bit to the penalties. No, sorry, not the penalties. We can't speak to the penalties, but the double deficits.

So, in our verification reports, currently, we do include, list if a POU is short in the portfolio balance requirement, as well as the procurement target. Again, they can achieve these requirements, comply with these requirements independently. But beyond that, we can -- we are not the party that's involved with setting the penalties. The CPUC sets penalties for retail sellers. CARB sets penalties for POUs, as appropriate. There is a requirement for CARB's penalties to be comparable to the CPUC's penalties for retail sellers. But we can't -- we have no control on our end whether those penalty -- or, deficit, excuse me, in two different requirements would be additive or the greater of the two.

Gabe, do you want to add anything or?

MR. HERRERA: Yeah, this is Gabe. Yeah, I agree with Katharine. I mean, the Commission, in the one example that it has is the Port of Stockton, the Stockton Port District violation. In that case, the Commission issued a decision that said that the -- you know, it's going to be not a penalty assessed to both violations in that case, but comparable to what the CPUC has done, right, looking at the higher of those two.

So, there's no reason to think the Commission would take a different approach going forward. And, certainly, ARB has to weigh in on how it is going to assess the penalties that the Commission -- excuse me, the violations that the Commission determines exists. So, obviously can't speak to what ARB is going to do, but at least you have as an example the Commission's actions on the Stockton Port District violation.

MS. LARSON: And coming back to the two different options, I hear that flexibility is something you would really like us to consider for POUs, and there are a lot of reasons to consider flexibility. We'll certainly get into more of that in the next topic area. But looking at just the two implementation options that we proposed, the independent and dependent compliance options, is it correct to assume that you find the independent compliance option as providing more flexibility? Because if a POU comes up short with long-term procurement, it only affects one of the procurement requirements, is that correct?

MR. WYNNE: So, I -- maybe it's helpful to look at example two. Because I don't think -- if I'm thinking about this correctly, I don't think there is a practical advantage to doing that. So, if a megawatt hour shortage of any of the three would be a penalty that then ARB would assess a comparable violation for, there would be no reason to maximize in getting to compliance with the procurement quantity requirement if you're still going to be short.

So, if you're short 10,000 megawatt hours of the long-term procurement requirement or you're short 10,000 megawatt hours of the long-term procurement requirement and the procurement quantity requirement, if those are the same megawatt hours and you're not being double penalized, there would never be a scenario where a POU would go and actively try and mitigate their penalties by procuring short-term contracts that they can't count.

MS. LARSON: So, I think an example -- are you referring to the dependent compliance option or the table?

MR. WYNNE: So, Table 2, where you have 50,000 short-term RECs. I don't think a POU would ever do that because there's no, there's no -- if you're looking at dollar amount penalty, or megawatt hour penalty, there's no advantage to doing that because you're still short.

So, and I think that, essentially, there would be two scenarios. One, a project doesn't come online in time, by the end of the compliance period, and you know that that's going to happen. So, you're six months out and you know that's going to happen. And then, you would use one of the optional compliance mechanisms to excuse compliance.

Or, two, after the fact there's a disagreement, CEC doesn't interpret a certain long-term contract as being long-term and so you're out of compliance, and you didn't have an option, an ability to use an optional compliance. I'm sure you could build things in where you could potentially address that anyways.

But in either case, you're not going to go out and procure a bunch of extra short-term RECs. And so, I don't think that the structure of the RPS, as its been implemented, encourages or allows a POU to mitigate penalties by procuring otherwise ineligible.

So, an example would be, and this has happened, if you're short on your bucket one requirements, you can't go buy a bunch of bucket three RECs to go help mitigate your penalties. There's examples, I think, from the first compliance period, where POUs had procured too many bucket three RECs because it was early in the first -- you know, 2012, they didn't understand the regulations, and so they purchased extra bucket three RECs. Those RECs were just gone. I don't think those ever -- it might be a mitigating factor you can argue, but that's a pretty big risk.

And so, I don't think that this scenario describes what would actually happen. That being said, I don't know, I think there's maybe a preference for the independent procurement, but it wouldn't be because of the flexibility provided here.

MS. LARSON: Just to make sure I'm understanding correctly, are you saying that a POU wouldn't procure or -- they would certainly only apply, toward compliance, only the RECs that could meet -- they wouldn't apply short-term RECs for the target if they wouldn't be counted toward --

MR. WYNNE: I think they wouldn't retire the RECs. Because, essentially, if you're retiring those RECs and they're going to be lost, I mean, you're essentially just throwing those away.

MS. LARSON: Right.

MR. WYNNE: Whereas, if you just held onto them until the next compliance period, they would have actual value.

MS. LARSON: So, the practical scenario in which a POU doesn't -- it has short-term RECs that can't be counted for one way or the other, it's more likely that they planned to meet the LTR and there was a reason that they couldn't --

MR. WYNNE: Yeah.

MS. LARSON: -- and fell out of compliance, or we disagreed over a particular long-term contract counting as long-term or not but, otherwise the POU wouldn't -- would not put short-term procurement.

MR. WYNNE: I think this is complicated. But my understanding of this is that there would be no -- there would be no advantage to the POU in doing that, as you've described it, because those megawatt hours you'd still be in violation. And the violation for a long-term is the same as a violation for a quantity or a portfolio balance, if you're looking at just its megawatt hours.

MS. BERLIN: This is Susie Berlin. I'll just add, then, in its most simplest term, at least to me, at the end of the compliance period if you're short, long-term, there's no way to go correct that. If you had a project that just didn't come through, whatever, curtailment, whatever, there's no way to say, oh, let me go out and grab some other RECs to make up for it. You can't go get PCC 1, or whatever. There's no way in the short term to procure a long-term REC.

MR. WYNNE: And just on that, for a larger utility, I think they will likely have -- run a risk analysis for their projects that are under development, and so that you would build in extra procurement. But for a smaller POU, they may only have five long-term contracts at all. And so, getting one more contract, particularly with all the difficulty we talked about, it puts them -- it may be over 100 percent, or it may be so economically disadvantaged -- harmful that they just can't have the -- they can't build in a buffer of an extra contract in case one of these fails, because it could be a third of their entire load that they need.

And so, whereas for a larger utility, there's ways to address this because you have hundreds of contracts. If you have three, four, or five contracts, it's very difficult to do that.

MS. LARSON: Okay, thank you. Anyone on the CEC want to ask questions related to the first question? No.

Okay, let's move -- oh.

MR. HARLAND: Katharine, let me just jump in and ask Justin a question about -- you said, in terms of the preference for independent versus dependent, it's probably not -- I mean, the desire to pick one over the other is probably not based upon, I think you said the penalties, potential penalties, but also the optional compliance measures. And I think you also indicated that you thought that there was certainly a way to look at the statute so that if the LTR was implemented on an independent basis that the POU could still get the benefit of the delay of timely compliance option, right.

Would it be possible to structure a POU's cost limitation in such a way that it could consider additional cost because a long-term contract failed for the very reasons that are identified in the delay of timely compliance criteria?

MR. WYNNE: I do think it's possible. And if that's -- I certainly wouldn't want to foreclose that option. But it does seem strange that when the provisions in delay of timely compliance are so aligned with what would happen in a long-term contracting scenario that we would interpret the statute as not intending to apply to that.

So, I do think we could do it. I think that it probably makes more sense to use -- I think that it probably makes more sense to use both. I think that's how I would approach it is looking at both cost limitation and delay of timely compliance.

And so, if you're building what would go into a procurement plan, you would have a policy under each that you'd be able to rely on.

MR. HARLAND: Oh, Excuse me. If you, you're a small POU and you only have a couple long-term contracts, four or five, and one of those fails and you don't find out until the end of the compliance period, it's not as if you could go to the market to replace it, right? Or, maybe you could, but if you did then it would be very cost prohibitive. And in that case, wouldn't that cost prohibition kind of fit in to an optional compliance measure for cost limitations?

MR. WYNNE: Yeah, I think you can definitely look at it that way.

MS. BERLIN: This is Susie Berlin. I agree, you could definitely look at it that way if you're saying, now, I'm going to go get a whole new contract, and it's cost prohibitive because of all these reasons.

But the provisions also --

(Whereupon music begins to play over the WebEx

audio link)

MS. BERLIN: They address different elements, right. So, a delay is -- gets on a contract, or you do need to go procure a whole new contract, maybe it's a contract delay. And again, if it's just a contract delay, you don't have a near-term remedy to correct that.

And I agree strongly with Justin that they serve different options, so it would be beneficial and reasonable to interpret the statute that they're both available.

MS. LARSON: Before we move on to the next question, just a quick follow up on -- so, we did talk about excess procurement, as well, how that would -- basically, it would be treated the same way under both options. Did you have any thoughts or initial reactions to that proposal?

MR. WYNNE: So, in the CPUC's process, I know this was a very complicated issue. I know a number of parties filed proposals on this. I think if I can state it simply enough, what we support is where you are able to bank more short-term RECs than what the ratio may otherwise allow. And so, as long as you are retiring enough long-term RECs to meet the requirements for the 65 percent for that compliance period, if you were to then retire additional short-term RECs, you'd be able to bank all of those as short term. Even if you took the whole group together and it was 55 percent as a group, including the excess, as long as what is actually counted towards that compliance period meets the 65 percent, you can retire excess short term.

And the protection is when you're pulling those out they keep their attribute as short term. And in the future compliance period, you still have to meet the 65 percent. So, the 65 percent is always being met in a compliance period.

But if you -- that's, I think, a key flexibility requirement. If you're trying to build a portfolio that gets you through, like if hydro or other issues, you need to have the ability to have excess short term, excess long term.

And I believe that that is how you have described it.

MS. LARSON: That was our intent.

MR. WYNNE: So, that, based off of that understanding, I think that that --

MS. LARSON: At least in the short term.

MR. WYNNE: I think we would agree with it, yes.

MS. LARSON: Okay, great. So, we can move on to the next question, which I think Tim touched on a little bit. Which option best supports the state's hundred percent clean energy policy?

I did think that was a really interesting point and a salient point that option 2, the dependent compliance option would result in eligible renewable energy procurement being disallowed, instead of counting for the RPS.

But I wanted to see if anyone else had something they wanted to add on this point, as well.

MR. STAMBLER: I mean, this is Jamey from the City of Anaheim. The one thing I would say about the dependent compliance is that the disallowed short term, I would -- even though you're not necessarily meeting your long term of 65 percent, I still feel like those disallowed -- if you're paying a penalty, I still feel like those disallowed short terms should actually still be banked, because otherwise you're just losing those for nothing and you're still paying a penalty on top of it.

MR. WYNNE: Yeah, maybe, so if I'm understanding the issue, so the scenario might be what we talked about where you've met the 65-percent requirement, but then after the fact CEC reviews a contract and your -- one of the contracts is disallowed. But in that compliance period you had actually banked excess short-term RECs. As long as you're -- you know, everything was done in good faith, you should be able to keep those banked excess short term, without having everything wiped out because there was a misunderstanding about contract interpretation.

I think that's the concern is that you may have planned on banking a large amount of short term. This contract gets disallowed. We have no ability to correct things after the fact. And then, you're in this situation where now you're not only getting a potential penalty, but you're getting all of these RECs wiped out. I mean, there might be various options to address it but --

MR. STAMBLER: Essentially. Essentially because, again, as Justin stated, you would never be -- you would never intentionally be retiring more short-term RECs than you thought you could compared to your long term. So, it would have to be some type of after-the-fact error. And then, disallowing those RECs is basically just losing ratepayer investment and money.

MS. LARSON: So, it sounds like that would be a -- that would actually be a slightly different treatment of banking excess procurement than what we have proposed in the staff paper, and the presentation. Because in that case, we are proposing that you have to satisfy all your requirements, including the LTR.

So, even if something came up after the fact, and some of your thought-to-be-long-term procurement didn't count, that would -- the staff proposal would prevent you from banking anything as short term because you hadn't met that long-term procurement requirement.

But with that said, I think we're -- and that's based on our understanding of the meaning of excess procurement, but certainly happy to hear comments and be convinced.

MR. TUTT: So, this is Tim Tutt again. And just with respect to flexibility, I think the dependent option removes from us the flexibility of not complying with the LTR.

MS. LARSON: That's correct.

MR. TUTT: Which we're not planning on using that flexibility.

But I guess what I would say is with that option I can see -- and it's going to take more thinking, I think. But I can see a situation where procurement is slowed just to be safe, in a sense. Where, for example, you have a long-term contract and you're meeting -- you expect to meet the long-term contract requirement, but there's some uncertainty about that contract coming into being. There's, you know, you hope it will, you think it will, you're planning on it, and you're buying short-term RECs to complete your compliance. But if you suspect that it may not, then you may pull back on some of those short-term RECs because you don't want them disallowed.

So, I could see that happening. I guess, like I said, it is going to take some more thinking as to exactly how all that plays out. Anyway.

MS. BERLIN: So, this is Susie Berlin for NCPA. I just want to note, when we're talking about disallowance here, we're talking about disallowing RECs that are already certified from eligible resources. So, we're just saying they're being disallowed because they're not, they are not long term or short term.

So, when you look at it that way, both options meet the state's goals because we're still going towards a hundred percent clean energy.

So, if you know, if the goal was a hundred percent clean energy under a hundred percent long-term contracts, then maybe the discussion would be a little different. But we're talking about eligible resources and the nuances are whether they're eligible resources under long-term contracts or under short-term contracts. But we need to keep in mind, when we're throwing terms like disallowance around, we're talking about this is still energy that is coming from renewable resources.

MS. DEREVI: And this is Tanya DeRevi from SCPPA, again. Just to reiterate the point of POUs needing flexibility for RPS compliance purposes, one concern we do have. If the Energy Commission were to move forward with a very technical or overly prescriptive LTR implementation option, we are concerned about long-term market impacts, particularly. It's a generally well-functioning market right now. Folks mostly know the rules of the game.

So, having something that could unreasonably deter contracts that are favorable for us, and California ratepayers in general, is something that we are very cognizant of. This is basically like an issue of regulatory uncertainty or regulatory risk when it comes to trying to comply with an ultimately one hundred percent clean energy policy.

MR. TUTT: This is Tim Tutt from SMUD, again. And I guess we would be remiss if we didn't mention that the one hundred percent clean energy policy is not a one hundred percent eligible renewable policy. It does envision, in my mind and I think the author's mind, that large hydro counts as clean energy, and nuclear counts as clean energy.

At the SB 100 workshop last week, the green nuclear folks were there saying, you know, there may be a nuclear renaissance in the future. We'll see. But just want to make sure that since we're talking about an RPS enforcement rule here, that that point doesn't get lost.

MS. DEREVI: Tanya DeRevi from SCPPA. I would be remiss if I didn't also add, from the SB 100 workshop last year, SCPPA did work with the author of SB 100, then Senate President Pro Tem, Kevin DeLeon. While it was moving through the two-year-long legislative process, at the end of the process to get a letter to the *Journal*, as it's called, entered into the official senate record, which was to clarify the intent of the zero carbon portion of SB 100, in recognition of large hydro and nuclear resources that are existing and currently serving Californians.

There are two resources within SCPPA's fleet of resources that this was particularly applicable to. One is our long-term contract with the Hoover Dam. That contract, by an act of congress, runs through the year 2067, October of 2067.

The second one is our long-term contract with the Palo Verde Nuclear Generating Station, located in Arizona. That contract runs through the mid and end of the late 2040s.

Particularly as it relates to large hydro for California POUs, a number of these projects are -- involve federal hydropower contracts. Public power utilities are considered federal power preference customers, which means, under federal law, like for Hoover Dam, we cannot sell the power. And we are under long-term contracts via the congress and the president of the United States for those, through a very long time. They're 50-year-long contracts.

That letter, we have submitted to the Energy Commission and is part of the official senate record in the *Daily Journal*.

MS. LARSON: All right. Let's move on to the third question, if there's no clarifying questions from CEC staff. Great.

So, the third question is asking, essentially, what reasons you would argue to support or you'd use to support one implementation option for the other.

Although, it sounds like, at this point, many of you may not have a specific preference for one implementation option over the other. But in terms of arguing for flexibility in general implementation options, are there any reasons you want to cite here to support that? Again, for specific contracting nuances, we'll get into that for the next topic. But if there are any additional reasons you want to bring up before we move on?

All right, covered them all and we'll cover them again. There's actually -- Gina's going to move the slide for me, since I left the remote up there. We have two other --

MS. BERLIN: So, Katharine, I'll just say real quick, I don't want to say we've covered them all. We're still, it's still something that's very much in play, very much under discussion.

MS. LARSON: Sure.

MS. BERLIN: So, we've raised a lot of them here, but I'm not sure that we could say that's all of them. We could say including, but not limited to other issues that may come up in the comments.

MS. LARSON: Sure, that's fair and noted.

Okay, so the next discussion question that we have teed up from the staff paper is what -- well, it's really looking at, and Tanya touched on possible market impacts a moment ago. But as I said earlier, there is no specific statutory requirement that requires POUs and retail sellers to have the exact same implementation of these procurement options.

But we're wondering to hear from you and, ultimately, from other stakeholders as well if there are -- if we do end up with a different set of rules for POUs relative to retail sellers, on the long-term procurement requirement, are there possible market impacts that could arise and could affect you, as well as other stakeholders?

MR. WYNNE: This is Justin, for CMUA. One possibility, certainly, if there's a very rigid approach where a POU has very little ability to address the situation we've talked about, where a project that you thought was going to be online at a certain date is being delayed, or fails, one mechanism might be to have contract provisions that would either increase penalties or there's a lot of different ways you could structure the contract to address that.

It’s likely or probable that that could result in increased contract prices. And so, the result could be, because of a regulatory decision, you’d essentially be increasing the price that POU communities would be paying because of something that’s really not providing any additional benefit, other than adjusting price terms because of the regulatory uncertainty or the regulatory inflexibility.

MS. LARSON: So, you’re saying that in a more rigid implementation option POUs -- not the stakeholders, the public could end up paying higher prices through the years.

MR. WYNNE: Yeah, if the POU perceives that they have limited ability to address these situations that are outside of their control, that can certainly flow into the actual contracts themselves and result in increased contract prices.

That’s a -- not going to be true in every case. And so, I think that there’s so many contracts and so many structures out there that might not always be true, but I think that that’s certainly a possibility.

MR. TUTT: And this is Tim Tutt from SMUD, again. And I guess, I mean we’ll think about it more, of course, for comments, but it’s hard to see a -- you know, a market impact that is really significant if the CEC implements the LTR for POUs differently than the PUC did for retail sellers. It's hard to see that.

MR. SIAO: This is David with Roseville Electric. Just to piggy-back a bit on Justin's point. To give you an example, we have a lot of long-term contracts. A nuance that we have to them is that delivery is by compliance period as opposed to, you know, annual deliveries. That gives our counterparties more flexibility in delivering these products, so we can get a better price for our ratepayers.

And again to Justin's point, the more rigid these regulations are the less flexibility we have and the more likely that is to drive up our costs.

MR. HERRERA: So, Katharine, this is Gabe, just a follow-up question in response to Tim's remarks. Tim, could there be a situation where you have a renewable generator that is selling power through an agreement with a retail seller, an IOU, and also selling generation from the facility or the same pool to a POU, under provisions that are different, that make it more preferable for that seller to sell to a POU versus a retail seller just because of the way that procurement would be classified as, say, meeting the long-term procurement requirements under the Energy Commission's rules for POUs versus not meeting the requirements for retail sellers on the CPUC's rules?

MR. TUTT: I'll think about it more, but I guess I can see that there is a possibility that there might be a preference or a difference. I don't know that that's a problem, really. I mean, there's lots of differences between the procurement practices of retail sellers and POUs that would potentially affect how a renewable provider or a renewable generator, that has contracts with both entities, might look at those different contracts and understand how to best optimize for them.

And I'm not a renewable provider, so it's hard to say. But I think it's possible, but I don't think it's necessarily a problem that happens. And there's lots of other differences.

I mean, that's one of the reasons why I think there's -- it's a good thing that we do have some short-term procurement. Because, I mean, if you have a contract like that and one of the contracts ends early or differently than the other, which is also quite likely, then there might be, for example, three years at the end where this renewable generator is obligated to provide his generation, say, to the retail seller, but has extra generation that they need to sell on the short-term market. And they need to be able to do that.

It might be better for them to, you know, sign up a new contract when they're full and clear of both, but they want to be able to sell that short-term power when they have it.

And there's many instances like that, where renewable generators, at least in my mind, would like the flexibility of being able to sell short-term power around the edges of the contracts that they have.

MS. LARSON: All right, let's move on to the last question that we have for this topic.

So, we've put forth two potential implementation options. As I have mentioned, there are probably a lot more. They may be as simple as one facet of the implementation options, but there could be ones that really are entirely different.

So, we wanted to hear from you if you have any thoughts, now, on if there are additional implementation options we should consider that maybe are less burdensome and, again, sufficiently effectuate the purpose of the statute.

Do you like the two?

MS. DEREVI: I think it's safe to say that we're still talking to our members about this one, so may not have a definitive answer right now, but hope to have something more definitive before the comment deadline on the 24th.

MR. STAMBLER: This is Jamey Stambler from the City of Anaheim. The only thing I would say is possibly thinking differently about how calculating the percentages on the dependent compliance. So, for instance, and this is kind of under the assumption of not an additive punishment, but it was --

(Whereupon music begins to play over the WebEx audio link)

MR. STAMBLER: -- it was the highest category you could be penalized for. You could think about possibly using the -- like for the short-term RECs, you could think about having the 35 percent be pegged to the obligation, rather than just the ratio between long term and short term.

So, that in that situation what would end up happening is you have a 15,000 shortfall in the Table 2. You'd have it -- when I was doing the calculation, it looked like 15,000 short, you would have 15,000 long term that you're under and then, you would have, I think, 15,000 PCC 1. But again, it would be 15,000, rather than it increasing in the one category to 23,000.

So, it would be -- overall, if it was additive it would be more, but it would be less if it was single category function. If that makes any sense.

MS. LARSON: I'm digesting. But thank you.

All right, if there are no other comments at the roundtable for the moment, we'll turn it over to public comment. I think Greg's been collecting the blue comments and maybe Gina has them already.

MS. BARKALOW: Uh-hum.

MS. LARSON: We have the reminder of our public comment rules up there on the -- on the presentation screen, and Gina will go through them.

We're hoping to wrap up, so we can start the next section, by 11:45. So, in the event we have a lot of public comment, we want to let you know that we do have additional public comment periods throughout the proposal. Ideally, we'll have all for each topic. But since we have a lot of material to cover today, we may need to move forward at 11:45.

MS. BARKALOW: Hi. I'm Gina, again, for those that are listening online. So, the public comment period will be three minutes per person. Hand in your blue cards. I have one so far.

It would be helpful on the blue cards if you would indicate the topic and the question number that you want to speak to, just so I can try to organize them.

So, we'll start with those in the room. When I call your name, please line up at the microphone, and state your name and affiliation for the court reporter.

Then, once we've finished with the comments in the room, we will move on to WebEx. And we will give those on WebEx an opportunity to speak or they can also type your comments into the chat box to have it read out loud. After that, we will then go to the comments on the phone.

So, let's see here, I have a comment from Steve Uhler.

MR. UHLER: Thank you. I'm Steve Uhler, U-H-L-E-R. Thank you for this opportunity.

I'm looking at a situation that would end up with disallowed RECs and what kind of controls you are. As a stakeholder who would purchase a green product or a shared renewable product, the repackaging of contracts, and once a contract is repackaged, the credits that could come out of private generation, or net metering that would come out of those contracts, how will those be handled? How will those be controlled?

In 399.30(c)(4), it explicitly states that those

RECs cannot be used for any compliance. I'd like to know how that will be handled.

I'd like to know the contracts that are made under 399.30(c)(4), will they just be impaired by the state and so, there will be no ownership conveyed to the customer of those contracts?

Just in general, long-term relationships are good. Long-term contracts are bad. Would you have an iPhone? Would you have a Toyota Prius or any of these other vehicles?

Toyota establishes long-term relationships, but I bet you'll find that their contracts are short and they work with their providers to see that they get the product.

So, I'm trying to understand what the purpose of this is? It would seem to impair the ability for technology to move forward. It would place onerous restrictions on small deliverers, who can't have a number of large, long-term contracts to back up on.

So, there's a number of definitions that you haven't even defined, words left superfluous in 399(c)(4), such as participating and for the monetization, to let the public know who might be these, who are stakeholders. They would hold a contract that private generation will allow the POU to use that REC.

I don't see any of those folks at this table.

So, being that a stakeholder is considered to be an individual who has an interest greater than the public at large, I don't see any person. I would be that person at this roundtable, and a stakeholder.

So, I'd like you to see, to pay more attention to those stakeholders, and reach out to them, and let them know what you're doing here. Thank you.

MS. LARSON: Thank you. Thank you for your comment.

MR. HERRERA: So, Katharine, maybe you could clarify for the record here and for those listening through WebEx, whether there's a planned subsequent workshop where the provisions in Public Utility Code Section 399.30(c)(4) might be addressed?

MS. LARSON: Yeah, actually thank you, Gabe, that's a good point. So, we'll get into this a little more later. We are planning to have a second workshop, or I guess a third if you count the one from 2016, as well, ideally later this year, if possible. We haven't scheduled that date, yet. And at that point, we're hoping to look at the full range of statutory changes that affect the RPS regulations, including any revisions to the long-term procurement requirement that we make after this workshop and comment period.

So, at that point we do anticipate to specifically address 399.30(c)(4), which is the voluntary, the retail sales reduction for voluntary green pricing programs. Right, so at a future date we will certainly address that requirement specifically.

MS. BARKALOW: Okay, the next card I have is for Steven Kelly.

MR. KELLY: Good morning, Commissioner. This is Steven Kelly, the Policy Director for the Independent Energy Producers Association. I represent developers of primarily utility scale renewable projects across a whole array of technologies.

And I had actually a clarifying question, which I hope doesn't count against my three minutes, and then a comment.

Could you turn to slide 25?

MS. LARSON: Sure.

MR. KELLY: In the option two, on the second row it says: POUs cannot incur deficit in the LTR. And I was confused what that means?

MS. LARSON: Sure. So, the idea that in the dependent compliance option you can never be out of compliance with the long-term procurement requirement. You may start off by applying insufficient long-term procurement to meet all of your procurement requirements, including the target. But then the procurement that's actually counted towards your procurement requirements needs to be adjusted down to bring you into compliance with the LTR.

So, essentially, even if you start out without enough long-term procurement, your total procurement will be adjusted so that you meet the long-term procurement requirement.

So, you may start out with an initial deficit, per se, but you can't not be in compliance with the requirement ultimately.

MR. KELLY: See, that always throws me off about how you can't be in compliance because --

MS. LARSON: It sounds so simple, right.

MR. KELLY: I'm still confused. I assume there is an obligation, right.

MS. BERLIN: Can I ask a clarifying question about that? So, in essence what you're saying is that there's a hierarchy in the compliance and you will force compliance with the LT and then what falls out of that will be whether you may or may not be in compliance with the balancing and the total.

MS. LARSON: Yeah, that's correct. You said it very well.

MR. KELLY: But if you are unable to force the compliance in the long-term stuff, something happens, correct?

MS. LARSON: So, we, the Energy Commission, in determining compliance would ensure that that is forced. Does that -- am I --

MR. KELLY: Okay.

MS. LARSON: So, essentially, you would only be able to count for compliance any RECs that are in accordance with that 65-percent long-term procurement requirement. So, essentially, anything that you count for your procurement target needs to comport with the ratio of 65 percent long term and 35 percent short term.

So, if you, if that ratio is off, we won't let you count any of that excess short term toward your procurement target and PBR.

MR. KELLY: But if the ratio's off on the long term something happens, right? There is -- you can incur a deficit and be subject to some penalty?

MR. HERRERA: So, Steve, this is Gabe. So, take for example a situation where a POU procured 100 percent short-term procurement, right, less than 10 years.

MR. KELLY: Right.

MR. HERRERA: So, you'd subtract -- since they had no long term, you'd essentially have zero. So, that zero would be what the POU is assessed for the procurement target.

MR. KELLY: So, he's in deficit.

MR. HERRERA: Yeah, he's in deficit.

MR. KELLY: Okay.

MR. HERRERA: The full amount of the long-term obligation.

MR. KELLY: So, he is in deficit.

MR. HERRERA: Right.

MR. KELLY: I just wanted to make sure that I understood that.

MR. HERRERA: Right. And then, the Energy Commission found a violation --

MR. KELLY: And because you're in deficit there, you can't meet the other stuff. Right, that's the way it works?

MR. HERRERA: That's right.

MR. KELLY: Yeah, okay.

MS. LARSON: I think I understand what you're saying.

MR. KELLY: Okay, thank you. I just wanted to respond to one comment. There was a dialogue between Gabe and some others about flexibility and project failure. And I think, Gabe, you were talking about a situation where is there an opportunity to, if project failure occurs, to take that into account in the cost minimization component of the regulations.

And I just wanted to make this point. That when you do your regulations, it's important to create incentives for jurisdictional entities to do every effort they can to contract with viable resources. There is a whole array of resources out there, many of which are viable and can come online on time.

There are some that are quite unique, relatively speculative in the industry and people think they'll never happen.

We don't want to create an incentive where contracting with those resources provides you an avenue to avoid compliance with the long-term requirement. It just seems to me that we have to be very sensitive to making sure that we create proper incentives to actually contract with viable resources.

And I'll just make this one additional comment. At the PUC, about ten years ago, this issue came up about projects in the -- at that time, most of the utilities contracting with what those in the industry considered to be relatively nonviable projects in order to meet a compliance obligation, which they did. And we pushed for consideration of project viability in bid evaluation, in order to make sure that they did a better job of procuring.

So, I just want to make sure that your regulations create those same incentives. Thank you.

MS. LARSON: Thank you.

MS. BARKALOW: Thank you. Okay, any more questions in the room?

All right, we will go to WebEx.

MS. JONES: We have one question and one comment from WebEx. First, the question is from Nathan Gallegos from LADWP. The question is: If a POU applies excess procurement either short-term or long-term to a compliance period, will the excess procurement applied be used in long-term REC compliance calculation? If not, is excess procurement an option for satisfying a long-term REC deficit?

MS. LARSON: So, if I'm understanding the question correctly, it's whether excess procurement that's being applied is factored into the long-term procurement requirement for a compliance period?

And the answer is yes. So, we are specifically proposing to calculate the long-term procurement requirement based on all RECs applied for compliance during that compliance period, whether or not it's RECs retired and applied, or it's RECs that you previously banked and are then applying toward the target for that period.

So, in a given compliance period, if a POU is banking excess procurement, those RECs wouldn't be subject to the LTR. But when they're actually being used for compliance in a future compliance period, where they're actually being applied, they would be subject to and considered in that 65-percent calculation.

MS. JONES: Nathan, you're unmuted right now. Do you have any comment back?

MR. GALLEGOS: No, that answered my question. I was just looking for a little clarification because it wasn't totally clear to me. But that answered my question well, thank you.

MS. JONES: Thank you. Okay, the next comment is from Willie Manuel. TID 399.13 states that: "For electricity products meeting the portfolio content requirements of paragraph 1, of subdivision b, of Section 399.16 contracts of any duration may count as excess procurement."

So, since any option that results in disallowance of SC PCC 1 is inconsistent with that provision.

MS. LARSON: Could you repeat the last provision for us to --

MS. JONES: The whole thing?

MS. LARSON: So, with which provision does it --

I mean, the last provision that you read. The 399.6 some --

MS. JONES: I will just repeat the whole question. TID 399.13 states that: "For electricity products meeting the portfolio content requirements of paragraph 1, of subdivision b, of Section 399.16 contracts of any duration may count as excess procurement."

So, since any option that results in disallowance of SC PCC 1 is inconsistent with that provision.

MS. LARSON: Okay, I think we may be getting to that in the next topic, in the next discussion that we have on the characterization of long-term procurement, including procurement from count-in-full contracts. So, hopefully, that will speak to the point then and, if not, then we can revisit the question.

MS. BARKALOW: Okay, is that it for WebEx? Okay, so now we will move to comments on the phone. We will unmute all lines. So, for those on the phone, please, if you want to speak unmute your phone. This can be very unruly, so we'll give it a try and see how it goes. Thanks.

Okay, sorry. So, for those of you who do not want to speak, would you please put your phones on mute?

We are hearing a bit of sound throughout the presentation, so all of you on the phone should please be on mute. But we'll go ahead and try and open the lines for those who want to speak. Thanks.

(Bell ringing)

MS. BARKALOW: Oh, sorry.

MS. LARSON: Are the lines unmuted?

MS. BARKALOW: Yeah. Okay, just a reminder, we welcome written comments. And so, we will now move on to Topic 2.

MS. LARSON: All right, we'll now move on to the next topic, which is the characterization or the proposed characterization of long-term procurement.

This slide shows the same excerpts from 399.13(b) and 399.30(d)(1) that we showed earlier, but now we're focusing on a different part of the statute on top. Specifically, the requirement that long-term contracts -- sorry, long-term procurement come from contracts of ten years or more in duration, or an ownership agreement -- or, ownership agreements for eligible renewable resources.

So, statute, as you just saw, is clear about some parts of the requirements for long-term procurement. Namely, that the contract has a term of at least ten years in duration. However, statute doesn't specify how that term should be measured or how amendments should be treated for the purpose of this requirement.

So, we are proposing that a contract must have at least one continuous ten-year term for the purpose of counting as long term and satisfying the LTR. One of the values of long-term contracts, that we discuss in the staff paper, although perhaps not the only value, is long-term planning stability that it provides. And in our view, a short-term contract, that's amended by a short-term amendment to extend the term, does not provide that planning stability in either term, even if the combined term of the two amounts to a term of at least ten years.

So, we propose that procurement from an amended contract may be considered long term under certain conditions. So, an extension of a long-term contract, any extension of a long-term contract would be considered long term because that first term or the initial term of the contract did provide long-term planning stability.

Conversely, a long-term extension of a short-term contract could be considered long term effective the date of the amendment that made the contract long term because effective the date of that amendment, the contract -- the amendment provides that long-term planning stability.

This is a different proposal than what we had in the August 2016 draft. And I also want to mention that it does differ somewhat from the current implementation of contract duration in the RPS regulations, which is used for the purpose of determining excess procurement eligibility. But we think this approach better reflects the term of a ten-year contract that provides the long-term planning stability that we see is a value of the long-term procurement retirement and we understand to be a benefit of long-term contracts.

We also propose that we measure the contract term based on the expected delivery term, which is the same as we proposed in the August 2016 draft.

So, in addition to requiring -- one other clarification, rather, on the long-term contracts. We propose that the continuous ten-year term requirement that I just discussed applies to the POUs' own contracts, because Section 399.13(b) refers to its contracts of ten years or more in duration, which we understand to mean a retail seller's own contracts. And PUC Section 399.30(d)(1) requires POU governing boards to adopt consistent requirements. So, in other words, we interpret that as meaning that the ten-year commitment must be on the POU side of the contract, as well.

An example of this, a practical example is if there was a long-term contract that was subsequently repackaged or some of the contract was assigned to a different party, we would consider procurement from any of those assigned or repackaged shares as counting as long term only if the duration of the POU's assignment or share are long term. So, essentially, the original contract would need to be long term and the POU's portion of that contract would need to be long term in order for procurement from the POU's portion to count toward the LTR.

So, in addition to contracts of ten years or more in duration, long-term procurement can also come from ownership or ownership agreements. We assume that ownership is permanent or we understand ownership to be permanent. So, we do propose that procurement from an owned resource or an ownership agreement is considered long term or characterized as long term.

The only condition in which this may not be the case is if the ownership agreement specifically lists a term. In that case, ownership isn't permanent. And so, we propose that procurement from such an ownership agreement can be characterized as long term only if the agreement term is for at least ten continuous years, just like for long-term contracts.

We also want to clarify that for joint ownership agreements that involve multiple parties, the amount of procurement that a POU can claim by virtue of its ownership from that agreement needs to be proportional to the POU's own share of the agreement.

So, for example, if a POU procured additional resources, additional procurement in addition to its own owned share then that additional procurement could only be characterized as long-term if it was procured via a long-term contract.

And this is something that we didn't specifically address in the August 2016 draft.

And I think this may be addressing the last question that we got about count-in-full procurement. So, in this slide we wanted to address the treatment of PCC 0 procurement and historic carryover. So, both of these procurement types involve contracts that were executed prior to June 1, 2010, which PUC 399.16(d) states: Shall count-in-full toward the RPS procurement requirements subject to specific conditions.

We've come up with two potential options for how to treat count-in-full procurement under the LTR. The first option would classify PCC 0 and historic carryover as long-term regardless of the term length of the associated contract, so that they count-in-full toward both the RPS procurement target and toward the LTR.

This is consistent with the CPUC's implementation for retail sellers, but it does differ from how PCC 0 and historic carryover are treated under the PBR currently.

However, it's worth noting that the statute establishes the PBR differently from the LTR because the PCC 1 minimum and PCC 3 maximum apply to procurement from contracts executed on or after June 1, 2010 and the LTR has no such provision in the law.

The second option that we're considering would treat PCC 0 procurement and historic carryover as count-in-full toward the procurement target without being subject to the LTR.

So, in other words, any PCC 0 or historic carryover would be subtracted out before we actually calculate that 65 percent LTR.

I do want to mention that this option would preclude a POU from counting PCC 0 or historic carryover that was associated with a long-term contract toward the LTR because it's simply not part of that calculation. And this is a consistent option with how PCC 0 and historic carryover are currently treated for the PBR.

The last topic that I want to tee up on the characterization of long-term procurement is specific to PCC 2 procurement. We propose that in the event that substitute energy and the eligible renewable generation in the PCC 2 product are procured under different contracts, then only the contract for the eligible renewable generation needs to be subject to the continuous ten-year requirement. There are no requirements for substitute energy to come from eligible renewable or even low-carbon resources, so requiring it to be subject to a ten-year contract term would likely restrict a POU's flexibility without providing a clear benefit.

So, this is actually a much shorter presentation on the characterization of long-term procurement. I will turn it over to Gina, now, for the roundtable discussion. And once again, we hope that questions can first be addressed in the roundtable, but if there are lingering questions, after that we can address them in public comment.

MS. BARKALOW: Okay, hi. So, I am moderating this session and Katharine is back at the table now, for the roundtable discussion. Let's see here, so I'll go ahead and begin with the questions. And as Katharine had mentioned, we want this to be a free flowing discussion. So, I won't just call on you. But please, go ahead and make your comments and, hopefully, that will spur other thoughts and others will join in.

So, as Katharine explained in the presentation, our proposal is that an amendment to a short-term contract must have a continuous ten-year term in order to provide the desired planning stability and to count towards the long-term procurement requirement.

So, we want to know your thoughts on this. The question is: Can certain amendments to short-term contracts, in which the duration of the amendment is also short term, but the entire amended term is ten years or more, can this provide long-term planning stability? Please explain.

MR. WYNNE: Justin Wynne for CMUA. And maybe just stepping back a little bit, I think in all of these questions, whether we're looking at whether the contract should be characterized as long term or short time, I think it's important to return to what we were talking about at the beginning, about the purpose of this.

So, one, and I think the most important for this is, is it something that supports necessary financing for the project. And so, if there are shifts between different parties, but the project is able to get developed, it's able to secure financing, I think that should be the guiding principle. The other one being does it support long-term planning?

And, additionally, so this is a requirement that’s going to go into place and become mandatory in 2021. And so, it’s certainly possible that we’re going to see different contract structures moving forward and so, I wouldn’t want us to have anything overly-prescriptive that would inhibit new contract structures that would provide necessary flexibility, but meet the goals of the statute.

And that’s my way of not directly responding to the question.

(Laughter)

MR. TUTT: This is Tim Tutt from SMUD. And, again, thinking about it, and we’ll respond in written comments, but I mean I think you should be open to allowing short-term contracts, which amend a contract -- or short-term amendments, or any amendment that causes the overall contract to be at last ten years to follow the long-term procurement requirement, or to be eligible for that.

And I’ll just give you a couple of maybe extreme examples. I mean, you could have a ten-year contract which you then amend with a one-year extension, and that would be considered a long-term contract. Or, you could have a nine-year contract which you amend with a nine-year extension and that would be considered a short-term contract. When, obviously, one is significantly longer than the other and it seems backward. So, you just need to think about how all that plays into the marketplace.

MR. STAMBLER: Going along with -- this is Jamey Stambler from the City of Anaheim. Going along with Tim's point is that I think you could possibly look at it, again, from that date of amendment. And so, if you're a year into a nine-year contract and you then do another extension of it for five years, and so you have effectively 13 years remaining on that contract, I would think that would constitute a pretty long-term plan that you could have around that contract.

MS. BARKALOW: If there's no other thoughts on this one, the next question is related. So, what reasons, for example policy, factual, practical, financial, legal, if any, or in addition to long-term planning stability would support characterizing short-term amendments of short-term contracts as long term, provided that the entire amended term is longer than ten years?

MS. BERLIN: So, this is Susie Berlin. One that comes to mind that if you are coming up to the end of a compliance period and you have a long-term contract that is not going to be coming through, and you've just been informed that it's going to take five years, you have a short-term contract you can amend for that duration. It would be a stop gap. You would address those concerns and you would not necessarily have to throw a lot of resources into procuring short-term agreements that you will have to do, anyhow, just to meet your other requirements.

So, from a practical stand point, being able to utilize the existing resources instead of, perhaps, you know, investing in new steel in the ground that might not be necessary, there is a good argument to be made for expanding on the existing contracts that you've already entered into.

MS. LARSON: A follow up to that. So, the long-term procurement requirement affects 65 percent of the procurement, or it requires at least 65 percent to be long term. As a practical matter are there -- it seems to me that if you had a POU with a lot of procurement, you know, one contract that maybe isn't coming through wouldn't have a big impact. They wouldn't necessarily need a short term -- essentially, that they could easily absorb that unexpected shortfall in long-term procurement into the short-term RECs they're already allowed to procure. Does that change based on different scenarios?

MS. BERLIN: I think it would change, I believe, based on different scenarios. Depending on the size of the utility, and depending on the size of the contract and where exactly in the compliance period you might realize there are going to be a delay of compliance or whatnot.

I think that there are -- the 35 -- yeah, you're right, it's not a hundred percent, but it depends on what contract you're talking about and what portion of that 65 percent, for example, that contract may have been.

MR. TUTT: This is Tim Tutt from SMUD, again. I could also see a rationale for, let's say you have a large long-term contract that's going to come online starting in the next compliance period, but you still need some long-term procurement for the current compliance period. It would be probably better to be able to -- or at least more flexible to be able to amend a contract and turn it from a 9-year into a 12-year contract move, to get through the current compliance period, rather than go out and buy a whole new long-term contract, when you don't need it in the next compliance period, potentially.

MS. DEREVI: This is Tanya DeRevi from SCPPA.

I'll add an additional rationale. On need for flexibility, especially when considering that this will be a forward looking, post-2020 period, is on the policy front there have been active discussions in the California State Legislature on future procurement mandates for any number of resources. These are typically resources that are significantly higher than, for example solar, in Southern California.

So, the State of California may mandate a short-term contract, which is then mandated into an additional short-term contract that gets you to ten years on any number of technologies going forward, as we ramp up to a 60-percent RPS. Having that additional flexibility for those types of considerations could become much more important in future out years, especially when these resources could become much more expensive.

MR. TOMASHEFSKY: Just one other dynamic I just wanted to share, which doesn't exactly answer that question, but it's a consideration in terms of a number of public utilities are always tied to the Western contracts. And there's a decision point on that, that's going to extend out for 30 years.

How that interacts, given that a good portion of that is not considered RPS eligible on a wet year, and how it has an impact on that 65-percent threshold becomes a problem.

So, the interaction between some of the optional compliance measures and how you would actually address this on a compliance period to compliance period basis can make it a little bit more complicated than just saying, well, it's ten years, or ten years in total.

So, there's a lot of dynamics we just have to take into consideration here, which we may not have a great answer for you, but it's definitely something we need to talk about.

MS. BARKALOW: Okay, we can move on to the third question. 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 long-term procurement requirement?

MR. WYNNE: So, Justin Wynne for CMUA. And with the -- what we were discussing earlier, the purpose of this provision in mind, if you're looking at whether the contract supports project financing, it seems to me that in a situation where there's an assignment, the project developer would be unaffected by this. Because the contract itself would have very detailed provisions on who's eligible -- who's an eligible purchaser to be assigned to. There would be all the assignment provisions would be in the contract. The financing would be still supported.

And so, I don't see how an assignment, even if it was short term for the period of the remainder of the assignment, would be inconsistent with what we're trying to achieve here. So, if there's a ten-year contract and in year seven you assign it to another POU for the final three years, those initial seven years should be long term and the final three years should be long term.

And I think maybe as a guiding principle in this, if it's something that's contemplated and pursuant to the provisions of the original contract, so everyone -- it was something that was fully considered, I think that it's something that should be allowed. And there's probably a lot of different variations of this.

One other issue that came up is if you have a joint project, so there's multiple buyers. And throughout the term of the contract they may shift their percentage share of the output. I think flexibility there would be something that would be very helpful. Particularly for smaller POUs, one of the things we talked about earlier was the difficulty that they have in finding developers that are willing to do these types of contracts because they're such a small amount. Getting multiple buyers together is essential. But for them, because of the variation in load, variation in generation is such a bigger issue for them, having the flexibility to shift between the buyers throughout the term of that contract I think would be very helpful.

So, as long as it's something that's originally contemplated, I don't see why it should be restricted under the definition of what would qualify as long term.

MS. BARKALOW: Can I just ask a clarifying question on that? So, are you saying, then, that initial contract term would list the POU that may take just a short-term portion of it, but they are identified in that initial contract?

MR. WYNNE: It wouldn't be a short-term portion. So, it wouldn't identify this is the POU that can take for these years. The two situations --

(WebEx operator interruption)

MS. BARKALOW: Maybe we could just wait a minute. For those on the phone, we seem to be having a WebEx problem, so we're going to just hold on for a second.

(Pause)

MS. BARKALOW: Okay. How about we take a five-minute break. We just have a few questions left on this panel topic and then we will break for lunch. So, please do come back in five minutes.

(Off the record at 12:00 p.m.)

(On the record at 12:08 p.m.)

MS. BARKALOW: Thank you, everyone for your patience. That was a well-deserved break.

We only have a few questions left in this panel and then we will break for lunch, so let's just continue on.

MS. BERLIN: So, Gina?

MS. BARKALOW: Yes?

MS. BERLIN: Can we go back to the last question?

MS. BARKALOW: Yes. So, we were on question three and Justin, you were about to give a response.

MR. WYNNE: Yes. So, what I'm thinking of is two different scenarios. So, one would be a long-term contract where there are multiple buyers and the original contract would have a provision that would allow the relative share or that each buyer is taking to shift throughout the contract term. So, all the buyers would be specified. The only thing that would be changing throughout the contract term would be the percentage off take that they would be taking. So, you wouldn't be adding anyone new.

And so, in my view, that would all count as long term. So, even if -- even if it is subsequent -- as long as you're exercising the provision that's in the original contract that would all be long term.

And the second scenario would be there's a single buyer, there's an assignment provision in the contract, and at some point, year seven you assign it to a different POU that meets all the requirements. It's essentially just exercising that assignment provision.

The original seven years and the final three years would all count as long term as well.

MS. BERLIN: And on that last point, Susie Berlin, I think the scenario, whether a long-term contract that's assigned for a portion of it should retain that, I think that that's -- well, I don't think, I'm telling you. That's exactly the kind of flexibility that is necessary to address scenarios where you have very big discrepancies in load.

Perhaps POU A had this ten-year contract and then, all of the sudden a major manufacturer in town left and then you've got a big shift in your load. And meanwhile, POU B just had a big manufacturer move in, not in time for them to enter into a long-term contract to meet that additional load. So, that basically allows the shift in load to follow the contract or the contract to follow the shift in load. All the while, the original intent of the legislation is being met because it is a long-term agreement that got steel in the ground, or they got the first agreement going.

MS. BARKALOW: Could you have a situation in which you have a POU off take maybe only one year within that ten-year term, and then it would still count as long term is that --

MR. WYNNE: I don't think that -- I don't think that the term length should guide whether it's long term or not. So, if you were able to get the original contract, financing was supported, the period of the assignment I don't think should be relevant.

I do think it's probably unlikely that you would have an assignment, just because of what's involved, very -- you know, with six months or a year left. But I don't think that that would be a consideration relevant to whether it would be long term. I think it would be uncommon that you would have the type of situation that you would have the type of situation that you're talking about.

MS. BARKALOW: Okay.

MR. WYNNE: But it still meets the requirements, it still supports the intent of the legislation.

MS. LARSON: Can I ask a follow up?

MS. BARKALOW: Go ahead.

MS. BERLIN: I'm sorry, just for clarification here, with regard to assignment we're talking about the assignment of the RECs and the power between different entities. Correct? I mean, that's the --

MS. BARKALOW: Yeah.

MS. BERLIN: Okay.

MS. LARSON: So, I think that's true, but I think we also would think to apply this concept to repackaged contracts as well. So, different processes, but the same general idea where a contract is getting divided up and some pieces may go to different entities on either the -- they could have the same term, they could have different terms.

But one question I had, so part of the reason we arrived at this staff proposal is based on the plain language read of the statute which, again, refers to its contracts, a retail seller's own contracts of ten years or more in duration, not just contracts of ten years or more in duration.

And, admittedly, we didn't have the benefit of being part of the stakeholder discussions in the legislation. So, do I understand correctly that you would argue that for POUs, at least, the meaning of the word "its" is perhaps not relevant because of the way they contract or, perhaps, they can adopt consistent rules that are not identical, or that even without requiring that ten-year term requirement to apply to the POU's own agreement, you still satisfy the meaning of the statute?

MR. WYNNE: So, one, I think that this is a complicated topic. I think it will be important to get input from individual POUs. So, it's something that we'll certainly revisit in written comments.

But in regards to the statutory language, I think there's a distinction between a sale. So, if you've purchased this and you don't need it for a few years, so you're selling the output for two years in the middle, but it's still you. You've negotiated this contract, you have title to it, you're transferring it to someone else through a resale.

It's different where you're fully assigning the contract to another party an they're essentially taking over that contract. So, the contract itself, the term would still be ten years.

I think that in my mind what would be essential is that the original contract contemplated and specified, whatever provision you're exercising -- I mean, assignment, that's very obvious. I mean, that would be very detailed. It's very spelled out in every agreement like this. And so, you're just exercising the provision under the original long-term contract.

MR. SIAO: So, this is David with Roseville Electric. And I just want to echo what Justin said. You know, going back to principles, are we trying to encourage financial stability so these projects can be funded? Are we trying to get the best value for our ratepayers? Are we trying to make sure that we're looking at long-term planning and can we meet these renewable goals?

A good parallel to this is the Transmission Authority of Northern California, which Roseville, SMUD, MID and TID are members of. Basically, this is a transmission project where we can get clean energy from out of state. And so, we have that kind of arrangement. This was too big for one individual utility to do alone, so we had certain assignments or shares of this project. And within the contract are provisions to allow us to transfer these assignments or, you know, shares of our transmission to other utilities.

And the reason is because, you know, our market, or planning, or regulatory situation may change. So, this allows us to, you know, again, tackle a large project that we wouldn't be able to do on our own, but also preserve value for our ratepayers.

So, I'm hoping the answer to question three, at least in the Commission's eyes will be yes. Because if it's not, it seems like that would diminish the value to ratepayers of a project like this. And I don't know that that would be the intent of the Commission or whether that would serve any purpose in, you know, encouraging renewable energy in California. So, just a thought.

MS. BARKALOW: Thank you. Okay, we'll move to question number four. 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 the purposes of determining the long-term nature of the procurement?

MS. BERLIN: No.

MS. BARKALOW: Moving on. No, kidding.

MR. WYNNE: Justin Wynne, for CMUA. I'll go slightly longer.

I think it's probably pretty -- it's very common in, particularly a long-term contract to specify certain things that might develop in the future. So, storage might be added at the site. Or, if it's a solar development or even wind, there may be additional phases, and so you're adding on. And that might be spelled out in relative detail what the potential future developments are.

And I think it would be counter to all of the purposes that we have here if we were to discourage a developer from adding more capacity to a renewable project because it's so late in the term that the remainder wouldn't be long term, and so that increased capacity wouldn't qualify towards the long-term procurement requirement.

I also think that would add a high level of complexity, where you'd have a single contract that could have the output split between the long term and short term. I don't know how you would implement that.

But I think anything that's contemplated in the original contract should be allowed. And so, if it's an increase in capacity, I don't see what purpose would be served in not allowing that to occur.

MS. LARSON: Would you say there's a difference if it's not specifically contemplated in the original contract or is that a practical matter that comes up?

MS. BERLIN: I don't think that the -- an assignment, or I don't think some of these changes should be contingent upon a contract coming up with every single scenario. Obviously, if there are arrangements out there and a contract is modified without impacting the, the -- well, especially, let's say it’s not impacting the recipient of the RECs, if we’re just changing obligations under the contract, for example, I don’t think that the original contract, especially if we’re talking about long-term contracts that were entered into a while ago, had to foresee every possible scenario.

I think what’s important to look at is are, you know, the parties involved and the renewable nature of the resource. I think that’s what’s going to -- what should be more determinative than whether or not every contingency was contemplated before there was this change or this modification.

MS. LARSON: So, for one of these other examples, then, like a change in procurement quantity for instance, if a, if a contract started out -- so, I think we wouldn’t want to be in the scenario where we’d ever go back and change contract duration if a POU -- you know, we certainly wouldn’t want to revisit any procurement that’s already been generated and is considered long or short -- long term under a contract.

But if, say, a POU entered into a long-term contract and in year two it decided that they didn’t need the full ten years of that term is that a scenario that would arise where, essentially, a contract that was originally long term could be amended so that it doesn’t last the full ten years? Does it sound like a practical scenario?

The idea there is that if you're making a commitment for long-term procurement, you would theoretically keep that commitment for all ten years. And so, just wondering if that's a scenario that could come up.

MS. BERLIN: So, this question says that does not explicitly change the duration. So, you're talking about a scenario that would change the duration?

MS. LARSON: So, I guess that -- that's a good point. I was thinking more of the effect of the procurement that's being procured. But, yeah, you're right, that is a different, a slightly different question from this contract.

But it's still a question I'd like to hear the answer to. But you're right, that's different.

MR. WYNNE: So, presumably, the contract would specify a penalty. So, if the POU was just to walk away from the contract without any reason for it, they would likely -- there would likely be significant consequences to them, so there'd be financial consequences to that. So, I think it is something that's unlikely to happen if the contract is otherwise functioning well. So, there would be strong disincentives for a POU to just walk away in year two from a long-term contract.

MR. SIAO: This is David with Roseville Electric. Since, you know, we're talking about potential scenarios, here's a thought exercise. We have a long-term contract with, in combination with another utility, which may or may not be going through bankruptcy right now.

And the way the contract is structured is we took the first few years of generation and in the latter years it goes down to 1 percent. So, hypothetically, you know, if the other utility decides that, you know, they want to shed this contract, here's some questions for you.

If we picked up that contract, with that portion that's been amended, would you count that as short term? That would have less value for Roseville and we'd have less incentive to do that.

Going back to your principles of do you want to secure financing for these projects? Do you want to make sure they don't go under? Do you want to make sure that renewables are encouraged and that we can hit our, you know, 100 percent clean energy goal?

I would hope that you would consider, you know, those sort of overarching goals in how you, you know, look at these regulations. So, just a thought. Thank you.

MS. LARSON: Thank you, that's an interesting example.

Any other thoughts or questions from -- oh, Scott?

MR. TOMASHEFSKY: I just had one question, just in terms of the reference to changes in procurement quantities. Are you looking at that a, as like one of your full requirements type of contract, where you just take whatever share that is? Is that sort of one in the same, it's either procurement quantity or a pro rata share of whatever comes out of the project, or how are you looking at that?

MS. LARSON: Okay. I think we would -- I think we would want to treat it as whatever -- the duration of whatever your obligation is. So, if your contract is structured in a way that you're taking a portion, a percentage, then we would look at the term length that you get that percentage. If it was a specific quantity, then we would look at changes in -- amendments that change the quantity there.

And, so, I guess that's the other scenario again is if you had a -- I guess this is going back to what I think maybe Justin was saying earlier or about -- or, Susie was saying earlier about adding capacity to a project. That should you -- if you do increase the output of a project or you pick up a piece of another contract toward the later years, should all the years of that -- all the procurement that you get from that contract be considered long term. So, whatever you add on at the end, even if you're only adding it on for a couple of years, should that still be considered long term?

MS. BERLIN: I think, then, we might be talking about question three, perhaps. Or, are you -- I mean, I'm not sure.

MS. LARSON: I think I maybe could phrase it better, so.

MS. BERLIN: Oh, okay.

MS. LARSON: So, if you have a ten-year contract and, say, you're getting 10,000 megawatts for each year, right. And then, in year eight you are able to pick up an additional 10,000 megawatts for your 8s and 9s -- or 9 and 10. So, for your 9 and 10, you're actually getting 20,000 megawatts each year -- megawatt hours each year. Could you claim those additional 10 megawatt hours each year as long term, even though they were added to the contract down the line?

MS. BERLIN: I guess I'm going to have to say it depends. Because where did they come from? Did they come from an assignment from somebody else that had an interest in them and no longer needs them? Did they come from a modification to the facility, so that facility made an investment and can suddenly bring on more capacity?

The scenario for me is a little vague to say, but the answer would be it would depend. You know, if it's an assignment, there were two parties and the one party doesn't need the last two years, and that party had an original ten-year term, then I'd say, yeah, the added should count. But without specifics or more details I'm not -- I couldn't say definitively.

MR. WYNNE: And Justin Wynne for CMUA. I think the intent here should be to encourage new development. And so, if there is something -- I mean, what would be common is you'd have multiple different projects developed for solar, for example, altogether, with different buyers taking different sections. And so, if you were to take over a different portion because a buyer had dropped out, I think that would support all of the state's climate goals, renewable goals.

And if the portion you're taking over is a shorter, you know, less than ten years, as long as you have the original contract, the developer's willing to negotiate that you would take over this remainder portion for whatever the relevant term is, I think that should count. I think the broader purposes would be served by that type of interpretation here.

MR. TOMASHEFSKY: So, this is Scott, again. So, with that in mind, in terms of how it is actually, it sounds like. So, if you're comfortable with that interpretation, would it be something you'd like to see in a contract that talks about here's the minimum requirements, and you would have other provisions in there that would talk about it? And to the extent there's additional components to the project that are built in subsequent years that those additional, those additional megawatt hours would then apply to the same contract.

So, you're basically looking at it as a -- it's not a snapshot. Your contract is not a snapshot of one particular component of a project, but it could be multiple things that grow over time, so you sort of build it that way. And then, that gives you the flexibility to evaluate it as, yeah, this is a long-term contract that had one element of it, and there was discretion to develop additional things that would add more renewables to it.

MS. LARSON: I think that would certainly help make it easier to follow, but I'm not sure that we want to specify how anyone can enter into contract amendments, per se. So, but it is certainly -- conceptually, it seems easier to follow that way.

Gabe and Mona, I notice you don't have a mic in front of you. I wanted to give you the opportunity to weigh in, if you'd like.

MR. HERRERA: This is Gabe. I was just thinking about Susie's example and about how factually it could be different, and so the outcome could be different.

And I guess if you had a facility that had a long-term contract and one POU had a portion of that generation for ten plus years, and another POU had a portion, the remaining portion for, you know, ten plus years. And then, the second POU drops out and now that generation is now available to the first POU. In that situation you'd say, well, maybe it's okay to consider that long term there, right, even though it wasn't part of the original contract for that POU. Because you're getting to the point that Justin made earlier about it was a ten-year contract, it provided for support for the facility's operation at the inception of that contract.

But if you're making an improvement to the facility and it wasn't contemplated at the inception of the contract, then it seems to me those improvements come at a cost. And so, like the capital financing for that. If you're only picking up two years and the improvements required ten years' worth of financial support, then in that example I guess you might consider that a short-term contract. Is that right? Because it doesn't take into consideration there's financing for the project, and stability, and whatnot. Is that kind of a reasonable way of looking at this?

MS. BERLIN: In my mind, yes, potentially. That's why I said it depends. Is it a whole new project?

MR. HERRERA: Right.

MS. BERLIN: Or is it the same bucket, the same project and just different entities are getting portions of it? And, there's, there's, if it's a brand-new project, just because it's right next door maybe that would involve a different scenario.

MR. HERRERA: And that would be different than, say, Scott's example where all that was known at the inception of the contract and you build out a project later on.

MS. BERLIN: Or even Justin's example where the contract contemplates doing that, right?

MR. WYNNE: I do think this might be an area where it would be important to get real world, real examples from POUs. Because there could be sort of minor improvements that would provide an efficiency, or there's interconnection, or something else that's increasing the capacity. That's not the same as an entirely project that's being developed. Things that you would want to encourage, but things that might not have been contemplated in the original contract.

And so, I certainly wouldn't want the regulations to discourage what would otherwise make a project more beneficial and more economic just because it wasn't contemplated in the original contract.

MS. BERLIN: Yeah, especially efficiencies. Especially, you know, if there are efficiencies that just happen to increase the input a little, those shouldn't be incrementalized and separately treated.

MS. BARKALOW: Okay, thank you. Should we move on to question five here?

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?

MR. WYNNE: So, Justin Wynne for CMUA. This is something where there was a lot of response from the POUs, because I think there's a very strong opinion on this that these resources should count as long-term procurement. Not the way that the portfolio balance requirements are treated.

It's very clear. And the portfolio balance requirement was a new provision, so it wasn't something where contracts were drafted with that specific definition in mind. Whereas, I think the term length of the contract is relatively straight forward.

We're also in a situation where, by 2021, all of the contracts that qualify for this, that are still in existence will necessarily have been long-term contracts.

And I think a concern would be that if you did treat it the same as the portfolio balance requirement, so there's sort of a penalty for this early action, if you amend the contract to extend it, you continue to get that treatment. So, if the original term is 15 years or longer, any contract amendments after that point continue to get this PCC 0 treatment. So, you would essentially be discouraging any POU that had one of these early contracts from extending the term. And I don't know what purpose would be served by doing that.

But I think this is something that I think there's a lot of responses that we received from.

MR. STAMBLER: I mean, I think this would go into question six, but I can kind of, kind of go -- I jumped ahead because -- sorry.

MS. BARKALOW: We can go to question six and answer both at the same time, if you want, so.

MS. BERLIN: So, this is Susie. I just want to say on number five, the question's very vague. Just I mean I'm not sure if it's what circumstances, or what contract provisions or you know, is it all of the rights and obligations are you saying? So, I'm --

MS. LARSON: I think what we're trying to ask is, is there ever a scenario and what would those scenarios be? Are some scenarios -- if the entire contract is assigned to another entity, is that the same as if a portion of a contract is assigned, if certain rights are assigned.

And, if a POU assigned over an entire contract to a different party, then I think we come back to the question of what does it mean for -- what is the meaning of the ten-year requirement for the POU's own contracts? Does it matter if there's just a ten-year contract in place? Or, does it matter that some – that, that each party to that contract had an agreement for at least ten years?

But I think there are other scenarios where maybe if only certain rights are being assigned, we're looking to get input on. If there are middle ground cases, other than you assign everything or you keep everything, where we should also consider what that might do to the contract duration? Does that sort of make sense? No.

MS. BERLIN: So, let's have this scenario. If a, if a POU assigns a portion of their contract just to rearrange the financial transaction, for example, but the same POU is retaining the same RECs and the power, then that shouldn't impact the long-term nature at all.

Now, if a POU is assigning portions of its contract, regardless, and then we segue into number six, depending on if it's a PCC 0 and what quantity they're changing, then I do think that there -- you know, there could be implications.

But I guess I'm struggling a little with how broad five is or under what circumstances should a POU's assignments of its rights does that affect the POUs that is assigning the rights, or are they being assigned to another POU? So, is the question for the recipient POU?

MR. SIAO: So, this is David again, with Roseville. And just going back to that example of the transmission project that we share with other utilities and, you know, this is just for that specific case, so I'm not generalizing here.

But in the contract, we do have the provision to assign our share of the project to other utilities. And even if we assign 100 percent of our shares, so we're down to zero percent, we do also, in the contract, have the option to get back our share later on, if our market or planning situation changes.

So, in the hypothetical case, if we assigned 100 percent of our share of a renewable project to another entity, I don't think you would have to worry about us, you know, having some portion of energy be short term or long term because it's all to the other utility.

But if we got it back then I think, of course this would depend on the contract, then we would still be a long-term signee of the contract for that project. So, again, it would probably depend on the specifics. But I can't envision a case, necessarily, where we would nullify all of the long-term properties of the contracts. Even if we had temporarily or, you know, for the time being assigned our share of the contract to another party. Just a thought.

MS. BARKALOW: Does anyone have anything else to say for question six? Do both treatment options for a portfolio count category zero and historic carryover effectively implement both the long-term procurement requirement and the count-in-full provisions under PUC Section 399.16?

MR. WYNNE: Sorry, I don't have anything to add to what we jumped ahead earlier.

MS. BARKALOW: Okay.

MR. WYNNE: So, I apologize for that.

MS. BARKALOW: No problem.

MR. STAMBLER: This is Jamey Stambler from the City of Anaheim. I'll go ahead and kind of add our feelings towards these different treatment options.

We feel that Option 2 does not -- is not an effective implementation of, of basically the, of the long-term, long-term idea. And the reasons are because treating that as, as -- treating the PCC 0s as non -- basically, you're going to be ending up treating them as not counting towards your long-term requirement under that Option 2. And that would unfairly penalize early compliance.

And also, as had been said previously, it's going to discourage POUs from extending existing contracts because you're not getting those contracts to count towards your long-term requirements.

There are other issues and concerns that we have around these not counting towards your long-term requirement is that there's ratepayer concerns. Some of our current long-term PCC 0 contracts are our oldest, largest, and priciest contracts. If they are not counted under this regulation, POUs may be compelled to buy new, long-term contracts, which will further increase our customer rates.

Buying new, long-term contracts could then create over procurement concerns which, obviously, could possibly depress market prices over time. And this outcome could actually drive developers out of California over time, if the market conditions make financing difficult or impossible.

There's also flexibility concerns, as can be seen with the issues the IOUs have had with pricey, long-term contracts and departing load. Forcing more long-term procurement is only going to decrease that flexibility to changing circumstances and cause further financial issues for all utilities.

PCC 0s, as Justin had stated earlier, are also almost all long term as of now. Most of them had to be executed before the June 1st two thou -- or, they did have to be executed before June 1, 2010. And most were delivering shortly after that or before that.

Um, So, at this time, in 2019, you're talking about nine years, essentially, after they had to be executed. So, all those contracts are essentially long term right now.

And there's -- I guess it doesn't make that much sense to just decide that those shouldn't count towards your long-term requirement, when most of the contracts themselves are already long term as of now.

And then, the other thing is fairness concerns. Not counting the PCC 0s towards your long-term requirement would unfairly devalue the investment that utility customers have invested in the procurement of renewable energy early on in this program.

MS. BARKALOW: Thank you.

MR. SIAO: So, this is David with Roseville, again. Just to piggy-back on Jamey's point. I'm looking at slide 14, and a plain reading of that, I don't see where it specifies, you know, what categories count or don't count towards the 65-percent requirement. And, you know, as you mentioned, a lot of -- at least in Roseville's case, a lot of our category 0 resources are essentially could be category 1, if we resold them to another party. So, from my perspective, it seems like we could be in a situation where we're just, you know, selling each other category 0 resources so they count as category 1. And I don't see what purpose that would serve.

MR. TOMASHEFSKY: Beyond giving Jamey a standing ovation for his remarks, I just want to share just an example of how it works with the NCPAGL (phonetic) thermal project, which is a perfect example of a PCC 0 project that has major investments being made to extend the life of that project.

That originally, going into the early part of the 2000s, the expected lifespan was supposed to end in 2013. And there are well work overs that are done there on an annual basis. We have wastewater treatment issues that we actually have solved by reinjecting treated wastewater into the steam field to extend the life for 30 years on that particular project. That is still going to be a PCC 0 project. Or, as long as the RPS program is in existence, that will continue to be a PCC 0.

And to not have that as probably a classic case for a group of smaller public utilities investing in a geothermal project would just not really be a fair characterization of how you should treat these things. I would rather have them invest in a project they actually know, than have to go out and procure additional resources that are basically in their backyard, under the ground, that we can continue to help support.

So, just have to be very careful about how you characterize the distinction between existing long-term agreements, which are important considerations, and the need to meet the RPS requirements with an incremental load that may not be needed in some respects.

MR. STAMBLER: This is Jamey Stambler from Anaheim, again. I just wanted to make one statistical point on this. Is that when I did calculation for Anaheim, for year 2018, if Option 2 was implemented, our long-term procurement would drop from 87 percent of our portfolio to 73 percent for 2018. So, it wouldn't take long before we were having to procure more contracts, even though we have plenty of contracts currently on our books that would meet this, that are PCC 0.

MR. TUTT: And this is Tim Tutt from SMUD. I mean, I'll just have to ditto that Option 2 does not, in my mind, give full weight to the count-in-full provision for PCC 0 contracts. I mean, I know that the LTR was added later, but I don't think that that means that the count-in-full provision doesn't apply.

And at least for SMUD, you know, if we knew that our PCC 0 contracts weren't going to count towards this long-term requirement, we would have interacted with the legislature differently as that bill was being passed, I'm certain.

I also know there are some POUs where a significant portion of their current RPS procurement are essentially PCC 0 contracts. And by implementing Option 2, if you did that, you'd essentially throw their RPS plans out the window and ask them to go back to the drawing board.

MR. WYNNE: And Justin Wynne for CMUA. I'd also point out I believe some of these resources that are PCC 0 are owned and so, you're very limited in your ability to do anything about it. And so, you'd have this owned resource that going forward would have this decreased treatment for long-term procurement.

MS. BARKALOW: Okay, lots of good input. Thank you.

We'll move to question seven. What market impacts, if any, could occur if the requirements for long-term procurement under the LTR differ for POUs and retail sellers?

MR. TUTT: Tim Tutt from SMUD. Again, I think there's so many differences between POUs and IOUs, and retail sellers, that if there are differences in this particular provision, I don't think there's significant market impacts overall for the renewable marketplace.

MS. BARKALOW: Okay, we can move to question eight. What other conditions need to be addressed to fully characterize the duration of procurement for the purposes of evaluating POU compliance with the LTR?

MR. WYNNE: Justin Wynne for CMUA. I think there's a lot of questions that we have because there's so much variance in how these contracts are structured. And so, a question that came up is what if the output that you're receiving differs throughout the term of a contract? I think Roseville mentioned one earlier, where they, it is high in certain years and then drops down lower in subsequent years. You could have hydro where, depending on what the terms of the contract are, you could maybe go years without getting any deliveries from the project because you're in drought years.

And so, I think it would be -- I think our approach to this is that it should be broadly interpreted. And so, if the term is ten years, all the other provisions -- so, you've supported financing, everything else is met, I think the structure of the contract I think shouldn't affect whether it be considered long term or not.

And there's a related question is bucket three RECs. And I think that it can be confusing to think of a long-term bucket three contract because that's not normally how we look at those. But I think there's probably a quite a number of structures that would qualify as long term under bucket three.

And so, I think it would be helpful to get some indication from CEC staff about the characteristics of a long-term bucket three contract. My assumption being that if the projects are identified in the contract, and the RECs are delivered over a ten-year period, that that would be all that's required to be a bucket three, long-term contract.

I think you might be getting all the RECs within certain years throughout that period. So, like in the last year of a compliance period or something like that. It may not be a continuous delivery. But it would be helpful to get your interpretation on it, if there's anything different about bucket three.

MR. SIAO: This is David with Roseville. Just to add on to Justin's point. We do actually have a contract with a counterparty where we category one, two and three. All of it is long term. And it's the one I mentioned where we have variable delivery within a compliance period. So, we would be very interested in your thoughts on whether bucket two and bucket three could count towards that long-term requirement.

MS. BARKALOW: Okay. Do you want to say anything, Katharine?

MS. LARSON: I just want to mention that I think it is interesting to think about how a bucket, a long-term bucket three contract would look and if it would look the same -- and somewhat, how similar or different it would be than the bucket one and two. So, I just want to say I take that point. Thank you for raising it and we'll definitely think about it.

Gabe, did you want to weigh in at all? Okay.

MR. HERRERA: Just to say this is a workshop to gather input from stakeholders. So, Justin, Jamey, David, Tim, if you guys have ideas or suggestions on why PCC 3 contracts should look differently than, say, PCC 1 or PCC 2, welcome your input.

MS. BARKALOW: All right, it's getting late. So, how about we move to public -- oh, I'm so sorry. Yes, go ahead.

MR. STAMBLER: Thanks. This is Jamey Stambler from City of Anaheim. I just wanted to ask one more question. Is that if you have a ten-year contract and in year six it gets terminated, for whatever reason, do -- are years one through five then retroactively deemed short term?

MS. LARSON: We would not propose to do that.

MR. STAMBLER: Great, thank you.

MS. LARSON: Only procurement going forward. Which in this case there wouldn't be any so it's easy.

MS. BARKALOW: Any other comments from the panel discussion?

Okay, so we'll move to public comment. I just have one blue card. And then, we'll go to WebEx and then the phone. So, Steve Uhler.

MR. UHLER: Thank you. Steve Uhler. It's largely a question about repackaged shares of contracts. If those repackaged shares end up in not resulting in retail sales what happens with those contracts? 2827(h) of the Public Utility Code might give you some insight to where 399.30 can be -- RECs can be claimed. So, and also you might look to see into your stash of power content labels for power content labels for something that's known as solar shares, which are considered. If you watched the video on my comment, you saw it's structured to compete against hanging stuff on your roof.

So, those are non-retail sales. How will you be managing that and how will they count? Is it just simply that a POU has a contract, it doesn't matter if it ever ends up in a retail sales, do they get to claim those RECs? Thanks.

MS. LARSON: So, I want to give the caveat this is an initial reaction, so since I haven't had a chance to go through all of the statutory sections you referenced.

But I think we -- I think a lot of your question does still have to do with the voluntary retail sales reduction at 399.30(c)(4). And any green pricing program or voluntary renewable program that is used to reduce retail sales, pursuant to that provision, can't gloss as it cannot be used -- well, the RECs have to be retired for the customer.

So, in this case I think it's -- I would think that the rules for repackaged contracts that we're considering here, for what counts towards the RPS requirements is something separate.

MR. UHLER: 2827. A person can rent a premises to obtain generation and that's -- whether that's classified as a repricing, or a green pricing, or shared renewables, you don't really classify. It just simply says those credits. Now, I know it's basically intended for rooftop, but if you read 2827, and all of that private generation, it changes the status of those RECs. Plus, you do not at this time, under your regulations or your proposed, have a method for retiring on the behalf of the customer. All RECs are retired for compliance with RPS. So, you do have a bit more work.

There are all these RPS plans. You should be able to run them all out and figure out what everybody's saying here about what it's going to do to them, to figure out -- you should already have your contracts and everything. You should be able to calculate this. A simple modeling task in discrete event modeling to do that, as opposed to these spread sheets that kind of average everything. And, quite possibly, you don't even know what the outputs of these things are.

The subject of increased output out of a contract may come simply by telling customers how to use more solar, because somebody might have bought capacity as opposed to energy. And then, suddenly, all that capacity could be used because there's a fair amount of curtailment to go on. All of these things need to be thought about because those are the practical answers.

So, 399.30 is just one aspect; 2827 is another aspect. But you need to know what those are because there's a lot of discussion going on here that can be all moot when you find out what those are. Thank you.

MR. HERRERA: So, Mr. Uhler, I have a question. So, if you'd please stay at the podium there.

MR. UHLER: Sorry.

MR. HERRERA: So, you're talking about 2827, which deals with net energy metering to some extent. Are you envisioning the situation where there's an energy provider that supplies, that supplies energy to a consumer, where the energy provider's installed a PV system on the consumer's property. So, it's kind of like a PPA, a power purchase agreement arrangement. And then, any net surplus that's not consumed by the consumer, then is owned by the energy provider, and then he bundles that up with other net surplus and then perhaps sells that to a POU? Is that kind of the repackaging situation?

Otherwise, I would think that in a net energy metering situation that the buyer would be the consumer, not the POU. And the obligation that we're thinking about here, with respect to the RPS, is when the publicly owned utility actually procures renewable energy. So, I guess I'm missing the connection between the net energy metering. If you could help me out there.

MR. UHLER: Okay. An example would be SMUD solar shares. They claim to have bought these one megawatt fields. You are a customer. Instead of putting it on the roof, they're competing against that, are doing it in a net metering fashion, receiving that energy.

These shares are, hopefully, designed that you never have a net surplus, but there's no requirement for net metering to have a net surplus.

So, in this case, there's not a retail sale of that -- of the energy. There's no retail sale there. Yet, that SMUD will have a contract with whoever's supplying their solar. Um, those credits are never sold at retail.

And if you would like examples of that, I have a bill where I'm not charged tax on that, and I live in the City of Sacramento. The City of Sacramento requires 7 and a half percent tax. I thoroughly, at board meetings, discussed this with them and they said, no, no, that's correct, there's no tax on those. So, that's not a retail sale.

So, my concern is, and particularly back to PCC 0 contracts, you may have been counting them for RPS and they were not retail sales. So, that really, that part from contract to retail sales needs to be identified.

The Public Utility Commission talks about that the folks are going to have to show the Energy Commission the chain of contract all the way down to the end user in order to determine who gets the credits for it.

So, thank you giving me this additional time.

MS. BARKALOW: Okay, so we'll move to WebEx and then to the phone. But one idea for you to contemplate and I'll ask you at the end of the public comment period is would you prefer to just plow through and get done with Panel 3, and the lightning round, and conclude the workshop or would you like to break for lunch? So, think about that and we'll get to that in a couple minutes, so --

MS. JONES: Okay. We have one comment from WebEx. Nathan, we just unmuted you. Please state your name and affiliation.

MR. GALLEGOS: Hi, this is Nathan from LADWP. The only comment I had to make was regarding amendments, where short-term amendments on short-term contracts, and I just wanted to make note that if short-term amendments aren't counted for long-term contracts, that could potentially deter new technologies from entering the renewables market, for instance. If we have some company approaching a POU with a WAVE (phonetic) renewable energy contract, but the department doesn't want to take on the risk, so they want to try it out for a, for a short term, and potentially amend it to be long. If the amendment requires a POU to only amend it by a minimum of ten years that would deter a POU from even entering a short-term agreement with new technology. So, that could affect how new technology is done through the renewable energy market as well.

MS. LARSON: Thank you for the comment.

MS. BARKALOW: Okay. So, another option that we have is maybe, instead of breaking for 45 minutes, we just break for 20 minutes. So, do folks have any recommendations?

MR. WYNNE: So, Justin Wynne for CMUA. I do anticipate that topic three can be addressed very quickly. And then, I think topic four would go real -- depending on what your expectation is for that conversation. On our end, if it's just identifying issues, I think that could also be addressed quickly. But I think topic three could take, minutes, I would assume.

(Laughter)

MS. BARKALOW: I'll look to the advisors.

MS. LARSON: So, if there are no objections going into --

MS. BARKALOW: Kourtney, do you have a --

MS. LARSON: -- item three, but do we want to break?

MR. HERRERA: Justin said a recommendation for a short break, and then coming back and moving forward.

MR. WYNNE: Yeah, maybe even five minutes.

MS. VACCARO: I think the only -- this is Kourtney Vaccaro. I think the only concern I have is that when we publicize notices like this for the public generally, not just for people in the room, we may have some unintended consequences if we completely blow passed sort of a reasonable break. So, five minutes might be too short, 45 minutes certainly might be too long.

I think maybe, and we did give estimates, right, to sort of manage expectations.

MS. BARKALOW: Uh-hum.

MS. VACCARO: I think if we like settle at 15 minutes, I think that seems like a reasonable sort of compromise for everybody. So, not like I am the queen decision making here, but I just kind of feel like what we're doing is right by everybody, including members of the public, if we don't just move forward.

MS. BARKALOW: Okay. So, how about we meet back at 1:15. Thank you.

(Off the record at 12:49 p.m.)

(On the record at 1:19 p.m.)

MS. LARSON: Alright everyone let's get started again. It's a past 1:15 and we haven't all eaten lunch yet, so I'm sure we'd like to conclude as quickly as possible.

So, the last topic -- let's see, is everyone at the table? Yes.

The last topic that we'd like to address today, that's specific to long-term procurement requirement implementation, is the voluntary early compliance process for POUs that elect to use the long-term procurement requirement beginning in compliance period three.

So -- oh, there we are. So, POUs that elect for early compliance and satisfy the LTR in compliance period three can use the SB 350 excess procurement rules beginning that compliance period, which could be desirable for the POU.

There we are. Unless a POU adopts for early compliance, the requirement will take effect beginning in 2021. And I do just want to mention that we think this applies to all POUs. The statute does not provide for any exemptions to the LTR. And some of the basis for past exemptions in the regulations for the portfolio balance requirement would not appear to affect a POU's ability to comply with the LTR.

So, to elect for early compliance, we propose that a POU's governing board would adopt rules in its RPS procurement plan or enforcement program that it would allow the POU the option to comply early with the LTR. After that point, the POU would report on the election, if it made it or not, pursuant to its adopted rules, in its compliance period report that's submitted at the end of compliance period three or, rather, after compliance period three.

We also propose that if a POU is determined not to have met the long-term procurement requirement for compliance period three, the POU could go and revise that election in its compliance period report and, basically, yeah, revise it. It would no longer be electing to comply early. All the way through the end of the CEC's verification activities.

So, this is a slightly different process than the CPUC implemented for retail sellers, which requires retail sellers to notify the CPUC within 60 days if they elect for early compliance, and also treats the voluntary election as binding.

However, our proposal here is consistent with the current requirement in the RPS regulations for the adoption and application of optional compliance measures, which do include excess procurement. So, the regulations set out specific rules and requirements for POU's to adopt and apply optional compliance measures, and then POUs report on their use of that measure in the compliance period report.

So, our proposal here for the voluntary early compliance process we think is consistent with the treatment to date of excess procurement in the RPS regulations.

I also want to mention that we think it could be unreasonable for a POU to have to make a binding election on whether or not it wants to meet the LTR early before the effective date of our regulations, which may come later in the compliance period. So, as a practical matter, it could be really hard for a POU to plan to make a binding election.

So, that's actually all I have on this topic. You correctly called it. This is a short and sweet presentation and topic.

So, I have a couple of discussion questions, which I'll pull up. I'm going to come back to the table. Alright, I'll juggle all my beverages.

So, the first question we have is just does this proposal effectively implement the provisions of 399.30(a)(4)(B), which sets forth the voluntary early compliance process with the LTR that allows excess procurement rules to take effect early, and then the Public Utilities Code that makes this process applicable to POUs?

MR. WYNNE: Justin Wynne for CMUA. I think the responses that we've heard so far from the POUs is support for this approach. I think for the reason you stated about the potential effective date that I think it makes sense to do it in this way, and it will be consistent with other optional compliance mechanisms.

MS. LARSON: Any other thoughts or concurrence?

MR. TUTT: Tim Tutt from SMUD. Concur and appreciate the flexibility. Thank you.

MS. LARSON: All right, then we can move on quickly to the next question.

So, essentially, this is getting back to the last point of our proposal which is that if a POU does elect for early compliance, and then is found during the CEC's verification activities for compliance period three to have not met the LTR, are there sort of unforeseen consequences that could arise? For, for example, if a POU retired additional, short-term PCC 1 RECs that they thought they'd be able to bank under new excess procurement rules in the future and now, suddenly, they're not able to bank -- use those rules because they haven't met the LTR? Scenarios like that. We just want to hear from you to see if there are some practical matters that we need to address or think further about for this proposal, especially given the timing of the verification process relative to the end of the compliance period.

MR. WYNNE: So, Justin Wynne for CMUA. I do think we probably need to get some more input on this. But I think at this point the expectation is if you are getting access to the changed excess procurement rules, that's the incentive. And so, you would have to commit to meeting the long-term procurement requirements. And so, if you don't do that, the penalty or the deterrent to you would be you'd be losing access to those excess procurement rules. I think that would be just part of the understanding.

And so, I don't know that there would be any of these scenarios that you're talking about that would be -- I mean, if you were to lose access to that, that's probably the structure of this early compliance provision. And so, I don't know that we've heard any concerns, but we probably do need to just get confirmation on that.

MR. HERRERA: So, Justin, this is Gabe, quick question. So, you've got a POU thinking they're going to satisfy the long-term procurement requirement early. Based upon that they've retired, you know, the required amount of long-term procurement, applied the required amount of short term. And then, they find out that they don't meet the requirement. Could there be a desire at that point, which could be after the verification process, you know, a year and a half, who knows, longer, right, for the POU to decide, God, if I would have done things differently, I would have retired more short-term RECs versus long-term RECs, and then be in a position where you'd want to, say, unretired some long-term RECs that weren't needed, so that they could be available in a future compliance period?

And then, if so, it seems like we're up against some deadlines in terms of unretiring RECs, and retiring RECs in that kind of situation.

MR. WYNNE: So, on one level I think that's the risk that you're taking. So, you would probably need to have a reasonable certainty that you're meeting the long-term requirements if you're going to take those actions.

I do believe we have come up with some structures that have allowed us to get out of -- get around some of the limitations. So, I think in WREGIS you generally have a one-year limit on unretiring RECS. And so, if you're -- because of the compliance timeline you're past that I believe, I'd have to go back and look at how we structured it, but there was a provision that the Energy Commission came up with that addressed that, when there was some sort of good faith mistake that had been made. And so, if it was a mistake that had resulted in this, maybe there is some provision that would allow you to adjust for RECs that are retired, even if you're past the WREGIS deadline.

But on one level, I think that's, that's sort of the responsibility of the POU that's making this decision. And so, I don't know that we would need to have an overly-complicated provision in the regulations right now.

I think that as long as there's enough flexibility in how you are interpreting what qualifies as a long-term, then we shouldn't be getting into these scenarios very often where you're unexpectedly having a long-term contract be converted back to short term.

MS. BARKALOW: Is that all?

MS. LARSON: It looks like it. Are there any comments? Public comments?

MS. BARKALOW: We don't have any blue cards. Do we have any comments on WebEx? Do you want to try the phone? Are there any questions on the phone?

Please mute yourself if you don't have a question. Okay, it sounds like there's no questions on the phone. Thank you.

All right, we'll move to the next section, the plan forward. Katharine.

MS. LARSON: Yes. All right, the next section, which I'm sure you've all been eagerly awaiting, is the path forward from here. So, before I get into the tentative schedule, I do want to mention that the copies of our implementation proposal are available actually on the table outside as you enter the hearing room, but also on our website. We do plan to make the presentation slides available on the website, as well, following the workshop. But again, if you're here in the room, you should have a copy already.

We'll be accepting written comments through September 24th, at 5:00 p.m. You can submit comments directly to our docket, with the link below.

Question?

MS. BERLIN: Yeah, before we get much further, I was wondering if we can just have three weeks and do October 1st for comments?

MS. LARSON: So, I think that's something we can certainly consider and it's a reasonable request. I'll let you -- part of the reason for this timeframe is to help us achieve our tentative schedule, which is aggressive because we do want to have regulations in effect at the end of the compliance period or prior to the end of the compliance period. So, I think that's something we can certainly discuss.

MS. BERLIN: Okay, very much appreciate your consideration of that. From our perspective for -- I don't want to speak specifically for SCPPA, but I can say for NCPA having a little bit more time on the front end to coordinate with the members and provide a more comprehensive response is helpful. And that extra step takes -- the two weeks doesn't allow enough time, we think, to provide that. So, if it's possible and still works within your schedule, it would be very much appreciated to provide more robust comments, ideally.

MS. DEREVI: Tanya DeRevi on behalf of SCPPA. I would echo that request. We won't be meeting with our folks down in Southern California until the 17th or 18th. So, having an extra time to coordinate with 12 rather large utilities would be much appreciated.

MS. LARSON: That makes a lot of sense. So, we will consider -- to be clear, we will consider and then let you all know, let the public know if we do extend the comment period deadline.

MS. BERLIN: Thank you.

MS. LARSON: So, once we get your comments, whether it be in two weeks or in three weeks, our next step is to develop an implementation proposal and/or draft regulatory language. Hopefully, everyone can hear me. And/or draft regulatory language on the full range of statutory changes that are affecting the RPS program, that we anticipate covering in the upcoming rulemaking.

This will reflect the input that you all have provided, both now and in your written comments, on the implementation of the long-term procurement requirement.

After we've developed that proposal and, hopefully, draft regulatory amendments as well, we plan to have a second public touch point. Ideally, a workshop later this year.

So, here is the money slide, so to speak, the tentative schedule going forward. Our goals is to complete prerulemaking and have a second workshop at the end of this year and start developing our formal rulemaking package early next year. So, we could initiate the formal process by the end of the first quarter.

We're hoping to bring a regulatory package to the Commission by quarter three next year, for adoption. And then, ideally, submit our final rulemaking package to the Office of Administrative Law for review and approval by quarter four.

With all that said, it's a tentative schedule. It's pretty aggressive relative to where we are, now. And it could change depending on the scope of the feedback that we get, the public input during prerulemaking activities, as well as if there are additional issues in the rulemaking as well that come up.

So, in some ways this is a Blue Sky schedule, but it is really important to us to move forward quickly on the regulations and try to provide you the guidance as soon as possible.

And that's actually all I have for the plan forward at this moment. Here's my contact information. You're welcome to reach out, phone, email. I'm always around.

Thank you all for your time and I'm going to turn it over to Gina Barkalow for a lightning round for priority issues.

MS. BARKALOW: Okay. So, we are about to enter the lightning round. This is an opportunity to raise your top priorities, issues or concerns for the upcoming rulemaking. You each have 60 seconds. And I have a feeling I don't need the timer, but I think we can just go around.

How about we start with you, Tim? Is that okay?

MR. TUTT: That's absolutely fine. Thank you for the lightning round, this is fun.

(Laughter)

MR. TUTT: Obviously, I think our top issue going forward, our top issues are going to be the interpretation of reasonable proximity and to the extent possible with respect to being able to subtract from retail sales resources that are us -- eligible resources that are used to supply our solar shares and green energy voluntary products.

We're promising those customers that they will get 100 percent solar or as much solar as they're contracted for, 100 percent green power or as much green power as they're contracted for. We're not at this point promising them that we'll give them, in addition, renewable RPS procurement on top of what we're giving them.

And so, we really appreciate the legislature allowing us to not do that double procurement for these customers and just stick to the promises that we've made them about the procurement we have.

So, that's going to be our key issue going forward. Thanks.

MS. BERLIN: So, this is Susie Berlin. I'll just use half of the 60 seconds, so that Scott take on the other half for NCPAs key issues.

But the topics that we discussed today are going to be very important because NCPA has a number of small members. Because of the, you know, joint powers arrangement we try to collaborate and facilitate these procurement for the members, the way in which the provisions for long-term contracting are interpreted are going to be important. The flexibility that we've talked about today, the considerations given the variability of our load, and available resources, those are all going to be very important factors moving forward. And the sooner we can get them addressed, with the greatest certainty possible would be very helpful.

MR. WYNNE: Justin Wynne for CMUA. I guess one thought is unlike the CPUC, where you can stagger certain things, the whole set of regulations are adopted together. And so, I don't know that you necessarily need to focus on when certain things apply, but I do think that for those issues that have an impact in the third compliance period or where you need to start taking actions right now to get in compliance, I think it would be appreciated if we could address those early.

And for things that apply in the third compliance period, if it looks like we're missing the schedule and we're not going to get things certified by OAL within that time period that we need to come up with some plan for how the POUs report, incorporate things in their procurement plans.

And so, cost limitation would be one of those where I think it would be clear to either get any changes done early or at least get direction on what needs to be done.

Green pricing is another one. That's something that already applies.

And then, long-term procurement, again taking action --

(Bell ringing)

MR. WYNNE: Yeah, thanks.

MS. DEREVI: Tanya DeRevi with SCPPA. This gets easier as we go along. Just to reiterate the first point we had led off with and that is maximum flexibility for POUs. We don't look anything like the large IOUs. When you compare a PG&E, for example, against a Banning or a Colton, they are vastly different. Some of whom are wholly serving disadvantaged communities in some cases.

We also wouldn't want to see regulations that end up punishing POUs for early compliance, when RPS prices were just getting off the ground and were really expensive, or going forward where RPS prices could again become very expensive for the newer technologies.

And again, the SCPPA fully-resourced provision that will be coming out of SB 350. So, those optional compliance type measures will be very important going forward as well.

MR. HIRASHIMA: Scott Hirashima, L.A. Again, just want to stress what's been said countless times here, is just the need for flexibility. As a larger POU, you know, we do enter into a number of contracts. And, you know, given that we are striving to reach 100 percent renewable in the near future, you know, we're entering into a number of these contracts that have, you know, 15, 20, 25 year terms. And these are for technologies with 20, 25, 30 year lifespans.

And so, again, you know, we need to stress the need for flexibility with new and emerging technologies, as well as access to, you know, optional compliance measures as stated previously. Thank you.

MR. STAMBLER: This is Jamey for the City of Anaheim. I'd also like to echo the flexibility needs. And also, just to reiterate that our top priority is that the PCC 0s count towards our long-term requirement. Because that would have a significant detriment on our ratepayers if that is not the case.

MR. SIAO: So, this is David with Roseville. I just want to thank the Commissioner and staff, again, for allowing us to come here and share our thoughts with you. This makes everybody's job easier and makes for a better regulation, so thank you for that.

Roseville is looking at, you know, procuring some more renewables in the next few years so, hopefully, we can get some good results from this workshop and the successive ones. But again, we just want to emphasize a couple of things that have been mentioned.

Flexibility will be helpful because, you know, we can't foresee all potential scenarios. And we want to provide this renewable energy to our ratepayers at least cost, if possible. So, thanks again.

MR. TOMASHEFSKY: So, do I get Vidhi's minutes, since she's not here anymore? I'll take a minute and a half, something like that.

No, this is always very helpful. And the conversations, I know we always appreciate having this continuing.

Just a couple quick points. One is a continued request to have as broad an interpretation of what comparable and consistent with PUC rules and regulations are, given that the business models are very, very different. That seems to be a general hang up whenever we have an issue. And it's not about trying to undermine the program, it's trying to find ways for us to be successful. And so, that becomes really important.

Also important to us is making sure that we do not lose the value of the PCC 0 resource. That is just absolutely paramount. And for our smaller members, that becomes not only a nonstarter, it becomes a major problem for compliance going forward.

The other thing, and I think I mentioned this to Katharine in an aside, since we've gone through, now, two compliance periods, one area that we haven't really addressed, the regulations do not address is what happens when you are a utility where you have now found in verification, after the fact, that there's a problem? Where there's either an inadvertent mistake in terms of how you account for some of your resources. When there isn't really any reserve to rely on, it's much more a problem for small utilities that have invoked cost limitation provisions. So, to the extent that there's nothing in the tank to rely on, to reconcile things, looking for ways to perhaps true up using perhaps the next compliance period. Even though it's not in the regs, it's just providing an opportunity to deal with a violation situation that really wasn't intended and it was discovered after the fact by both parties, both the regulating agency and --

(Bell rings)

MR. TOMASHEFSKY: A minute and a half, I think. Thank you.

MS. BARKALOW: Okay, Commissioner, do you have anything you'd like to add before we go to public comment?

COMMISSIONER DOUGLAS: No, I'll -- I'll make a brief closing comment.

MS. BARKALOW: Okay, sounds good. So, now, we will go to the lightning round public comment. We have one card. Steve Uhler, please come to the mic.

MR. UHLER: Thank you, again. I'm Steve Uhler. The things to think about is procurement means to obtain and be sold at retail. And if a retail sale is not made, there is no REC generated. It appears that your system thinks that there are RECs generated before the sale actually happens and is accounted for as a retail sale.

The accounting system should be capable of providing us information, at least up to the day, about what's going on, so that the legislature can have a better idea which way to go. Maybe they would avoid these long-term contracts if they were to see the difficulties of what's being done here.

So, um and when it comes to things like SMUD's solar shares and stuff, you need to make sure that those are retail sales before they are counted. Now, I'll give you examples, I'll give you more examples of that in written comment.

MS. BARKALOW: Thank you. Okay, that ends the lightning round public comment.

MR. UHLER: With the microphone on, it's Steve Uhler again.

MS. BARKALOW: Oh, okay. Oh, are you doing the lightning?

MR. UHLER: No.

MS. BARKALOW: Do you want to do the regular public comment?

MR. UHLER: Well, I just did the lightning round.

MS. BARKALOW: Yes. So, now, we --

MR. UHLER: Yeah, they go back to back.

MS. BARKALOW: Yeah. So, now, we're going to open to the final public comment period.

MR. UHLER: There's no WebEx public lightning round?

MS. BARKALOW: Oh, I'm sorry. Is there anyone on WebEx that would like -- oh, yes. Okay, thank you. I jumped the gun.

MS. JONES: Thanks. This comment is from Basil, with Santa Clara SVP. We share all of the concerns shared by the speakers. I would like to add that maximum flexibility is extremely important given the development of customer sided DERs, which highlights the load uncertainty and the variability.

MS. BARKALOW: Thank you. Are there any comments on the phone?

MS. JONES: We can unmute.

MS. BARKALOW: We are going to unmute. So, please mute if you don't have a comment.

Okay, sounds like there's no comments on the phone. So, let's move to the final public comments for the entire workshop. So, do we have any blue cards? Okay, is that Steve. Come on.

MR. UHLER: Thank you. I'm Steve Uhler. Things to consider is lack of definitions. You don't have definitions on things like a participating customer in a green pricing program -- pursuant to a green pricing program. These terms should not remain superfluous in your regulations. They mean something.

And also, what it means to monetize or further use a credit after it's been used for a green -- one of these 399.30(c)(4) situations, so that the public will know whether or not it means they can no longer, um claim that because it's been claimed for an RPS. This is important for things like LEED who, depending on your vintage of LEED, those credits are required to be retained. The contract should say it's retained. If it's retired, it can't be used for that LEED certification. I'll dig up some written comment on that.

Let's see, where are we on time?

MS. BARKALOW: You probably have about a minute left.

MR. UHLER: Okay. Yeah, your retirement definition doesn't talk about retiring on the public's behalf, or the customer, the green pricing customer's behalf.

Your definition of the compliance period references subsection c of 399.30. I kind of like that one because if I was doing a word problem, that would kind of say there's only one start, but there's many finishes, so we have nested compliance periods.

And then, also what's missing is a specified amount as a percentage for each compliance period. You didn't reduce to lowest terms, so we're going to mark your paper down on that one, as far as following what the word problem says.

I'll be going through with a number of things of pointing out these aspects of the current regulation, as far as and in the future, about actually, completely implementing the statutory provisions, particularly on behalf of the stakeholders who are the public, me, who would want to increase the amount. Which in public comment -- or in comment, Tim Tutt has said that this will allow them to reduce their obligation. And some people are thinking that they're getting more.

You need to pay attention to the public. I have bought Greenergy and Solar (indiscernible) simultaneously, at a hundred percent, and I stay below the allotment. So, in other words, I was a net producer. Are you guys counting both of those as renewable energy credits? Because per definition, they shouldn't be. You need to have better accounting.

You should do all the accounting on this. You should be able to tell everybody where they stand on their 65 percent well beyond -- well before. Move away from these spread sheets. Go to discrete event scheduling.

Something that I used in Roseville at NEC.

MS. BARKALOW: Thank you, Mr. Uhler, it's been over three minutes.

MR. UHLER: So, thank you.

MS. BARKALOW: Thank you. Okay.

COMMISSIONER DOUGLAS: All right. Well, I want to thank everyone for their participation today and for apparently working through lunch, or through some significant portion, but not all of lunch. And I think it was really productive.

And I also appreciate the fact that you do need to do some additional work and some additional thinking on these issues, and get back to us in written comment.

We decided to start out with this workshop because these issues are complex and we wanted to hear what you had to say, and we thought that it might take a conversation and then some follow-up work to get the kind of feedback that we were hoping for.

So, we will discuss the request for an extra week. But in any case, we're very much looking forward to your written comments on this. And we're looking forward to subsequent, you know, at least one subsequent future public workshop that will cover the other issues that we hope to address in this package, and moving forward to finalize regulations within compliance period three, which is our goal.

So, anyway, I just want to thank all of you for your participation today and look forward to following up. Thank you everyone.

So, with that, I think we're down to a close here.

MS. BARKALOW: Thank you, everybody. Instructions of written comments are in the notice.

(Thereupon, the Workshop was adjourned at 1:50 p.m.)

REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

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IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of October, 2019.

PETER PETTY
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Barbara Little
Certified Transcriber
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