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CALIFORNIA ENERGY COMMISSION

In the Matter of:

Pre-Rulemaking Amendments to ) Docket No. 16-RPS-03
the Enforcement Procedures )
for The Renewables Portfolio )
Standard for Local Publicly )
Owned Electric Utilities )
____________________________ )

LEAD COMMISSIONER WORKSHOP

WARREN-ALQUIST STATE ENERGY BUILDING
ARTHUR ROSENFELD HEARING ROOM, FIRST FLOOR
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

FRIDAY, JANUARY 10, 2020
10:00 A.M.

Reported by:
Gigi Lastra
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COMMISSIONER ADVISORS
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PUBLIC COMMENT
Tanya Derivi, Southern California Public Power Authority
Justin Wynne, California Municipal Utilities Association
Susie Berlin
Matt Freedman, The Utility Reform Network
Steve Uhler
Mandip Samra, City of Pasadena Water and Power
David Chow, Roseville Electric
Scott Tomashefsky, Northern California Power Agency
Basil Wong, Silicon Valley Power - Santa Clara
Rebecca Gallegos (via WebEx), City of Colton Electric Utility
Tony Gonzalez, Sacramento Municipal Utility District
APPEARANCES

PUBLIC COMMENT

David Olivares, Modesto Irrigation District
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10:02 A.M.

SACRAMENTO, CALIFORNIA, FRIDAY, JANUARY 10, 2020

MS. LEE: Again, we are WebEx recording, but we also have a Court Reporter, so as you speak today, please introduce yourself and your affiliation. And if you have a business card with you, if you could drop that off with the Court Reporter, it will help her as she’s transcribing.

COMMISSIONER DOUGLAS: All right, well, good morning everybody. I’d like to welcome all of you to our Pre-Rulemaking Workshop for the POU/RPS Regulations. I’m Karen Douglas. I’m the Lead Commissioner at the Energy Commission for renewables.

This workshop is the second workshop that we have had to update the regulations. We held a workshop in September 2019 to address long-term procurement requirements. Today’s workshop focuses on the entirety of the proposed amendments to the RPS/POU Regulations, including long-term procurement. These amendments address four laws that have been passed since 2015 that change how the RPS Program is administered.
California’s RPS Program is administered by the Energy Commission for publicly owned utilities and by the CPUC for IOUs, CCAs and ESPs. Lovely acronyms.

I think, where applicable, we strive to regulate the RPS consistently with the CPUC. However, POUs are different than the entities that the CPUC regulates and, at times, there are some differences in underlying statutory provisions. Therefore, there are portions of our regulations that differ, to some degree, from those of the CPUC.

I want to emphasize that having these regulations in place by the end of 2020, the end of the current compliance period, is a very high priority for the Energy Commission and for my office.

To that end, in December 2019, Staff released a key topics paper and language for proposed amendments to the regulations. We released the key topics paper and the proposed regulatory language well in advance of today’s workshop in order to give stakeholders, interested agencies and the public the opportunity to come here very well prepared to
address the issues that we are attempting to address in this update.

We also gave a long lead time for comment because we want to be able to go from pre-rulemaking activities into formal rulemaking with the strongest possible regulatory package, and that includes us being informed by your very best possible thoughts and comments. And so please take advantage of the opportunity today and the opportunity in submitting written comments to give us thorough, well-considered and great ideas that we can take forward. I strongly -- so I do strongly encourage everyone to participate in the discussions today and to submit their comments, thorough and well considered and all of that, by January 17th.

Before I turn the workshop over to Katharine, I also want to thank the Energy Commission staff for their efforts on these proposed regulatory amendments and their efforts in putting together today’s workshop. Renewables Program Staff, Natalie Lee, Armand Angulo -- okay, sorry Armand -- Gina Barkalow, Katharine Larson, Greg Chin, and Legal Staff, Gabe Herrera and Mona Badie, they’re here today, they’re
listening. I will have just -- my Advisors are here, Kourtney Vaccaro and Eli Harland.

I will have to step out right at noon. I’ll be back after lunch. They’re all here. I’m working very closely with program staff and with my advisors. So if I’m out of the room when you say something that’s just absolutely so perfect and important, feel free to repeat it when I come back in after lunch.

And, let’s see here, I will be in full-on listening mode. I may interject with questions, my advisors may interject with questions, but the workshop is going to be run by Staff.

So with this, I just want to thank you all again for your attendance today.

And I’ll turn this over to Katharine and Tanya.

MS. LARSON: Thank you. And thanks, everyone, for coming. It’s nice to see the turnout that we have.

Before we dive into the presentation, we’ll go over some quick housekeeping information.

There are handouts on the desk when you first enter the room. Hopefully, you’ve picked
some up. We’ve got copies of the presentation, the pre-rulemaking amendments, key topics paper, I think the notice, and a list of lunch spots that are in close proximity for when we break. There’s also a sign-in sheet on that table, so please do sign in if you haven’t already.

There are restrooms located on the first floor right as you exit these doors on your left or directly as you exit on your left.

In the event of an emergency, please follow Energy Commission staff out these doors and across the street to Roosevelt Park.

There are vending machines on the second floor in case you need sustenance in the interim.

As mentioned, we’re running this meeting through WebEx, and it’s being recorded and we have a Court Reporter.

Written comments are due next Friday, the 17th. They may be submitted directly in our docket via the e-filing system. And we understand it’s an aggressive schedule but, as Commissioner Douglas said, we’re really aiming to move forward as quickly as possible, and so we appreciate your timely comments.

So the agenda for today, I will go over
some brief background information, and then we’ll
dive into really the main event, which is hearing
from you on the key topic areas that are proposed
in the pre-rulemaking amendments. For each topic
of group of topics, I will provide a very, very
brief presentation just to tee up the issues that
we want to discuss, and then we’ll ask you for
your input.

We’re expecting these discussions will
last through the early to midafternoon, but we
will break for lunch around noon or just after.
Following conclusion of our discussions,
we’ll have a very brief slide or two on the next
steps, we’ll have a public comment period, and
then closing remarks and adjourn.

There we go. So just a very high level
background.

Part of our responsibilities under the
RPS are adopting regulations, specifying
enforcement procedures for POUs. We’re planning
to update the regulations to address various
changes from legislation.

Our current activities following this
workshop are to initiate the formal rulemaking.
Our intent is to do so in April with the publish
of a publication of a Notice or Proposed Action. And then by December, we intend to have the regulations approved and effective. I’ll talk a little bit more about schedule at the end but we wanted to highlight this here, just to give everyone a sense of how quickly we intend this rulemaking to move.

So really the key objective for today, for this workshop, is to get substantive input from you all on the policy areas that are proposed in the pre-rulemaking amendments. There are really two parts here.

So, first, we’re looking to hear your perspectives and arguments and support of or counter to the proposals that are in the amendments. The second part is to ensure whether -- or to get your input on whether we have sufficiently addressed all the diverse procurement scenarios or unique circumstances that are relevant to publicly owned utilities.

We do plan to rely on today’s discussion to support the development of our initial rulemaking package. And we encourage you, in addition to the comments that you make today, to follow up with written comments by that January 17th
It’s a little bit of a busy slide, but we plan to organize today’s workshop around the topic areas that are listed up on the board. As I mentioned, we’ll have, really, just a brief presentation to tee up the topic areas, and then we’ll jump into the discussion.

The topics that are presented here are not necessarily comprehensive of every single change in the pre-rulemaking amendments and I’m not going got spend a lot of time going through background information because you have that in the amendments themselves in the key topics paper for prioritizing policy areas at the workshop today, because we think that will get us furthest in actually developing that initial rulemaking package.

There will be an opportunity at the end, though, as you can see in Topic 9, which is Additional Changes, where you can pose comments or ask questions on any other change that we’re not specifically addressing in the discussions prior.

As you can see, there’s a lot to cover today. We’ve provided time estimates, just for -
to give an idea of how the workshop is organized and to help with planning but we want to stress that they’re really estimates only. If we need more time on a particular topic, we may spend that time or make adjustments. If we need less time, similarly, we could shorten that.

It’s possible, with the long-term procurement requirement, we may end up extending that 30 minutes a little bit longer. But, really, we want to keep things moving.

Also, sort of to that same end, there may be times when we need to move forward on a particular topic to ensure we can get through everything, even if there’s more to say. And at that point, we’ll just ask you to follow up in written comments. We’ll encourage everyone to keep their comments as brief as possible. And at times, we may ask you to limit your comments or questions to three minutes in duration. But we’re really just hoping to get through everything with robust participation from everyone.

Lastly, when we call on you, please do state your name and affiliation for the Court Reporter. And, as Natalie mentioned, please
provide the Court Reporter with your business card before you leave today. That will really help out.

So let’s dive in.

Oh, I forgot to mention, for WebEx, if you’re on WebEx, you can either type your question into the chat box or you can use the raise-hand feature and we’ll either un-mute you or have your question read aloud.

Yes, and we also would like to mention that Ken Rider from the Chair’s Office is with us today, so we’re very lucky to have him here as well.

For those of you in the room, as well, there are two microphones. One is at the podium, when we turn it over to the discussion portion. The other, Greg, over in this corner, will be walking around and passing the mike.

All right, long-term procurement is the first topic we’ll discuss today. And as mentioned, it was a subject of last September’s workshop. We really appreciated the engagement that we got at that workshop, in addition to the discussion that we had, we received written comments from 11 parties, some of which
represented multiple organizations. So we really appreciated hearing that input.

We’ve considered the comments that we received on the LCR in development the pre-rulemaking amendments the key topics paper. We think this requirement, still, is very complicated and has such a big entities on a lot of entities, so we do want to revisit some of the topics that we discussed at that September workshop to get additional input and more support that will help us build our record.

We’ll aim to spend 30 minutes, maybe a little longer on this topic, and we’ll talk about implementation, amendments and assignments, other considerations, which include voluntary early compliance, counting full procurement and historic carryover, pre-June 2010 procurement, and general applicability.

I should mention that PPC-0 and pre-June 2020 procurement, they’re not regulatory terms but they’re commonly used to refer to procurement from contracts executed prior to June 1st, 2020 that did and did not, respectively, meet the requirements to count in full.

And I should mention now that I’ll go
through a slide for each of these topics and then we’ll stop, we’ll prompt conversation, and give folks an opportunity to weigh in because they’re different sort of distinct implementation aspects.

Okay, so implementation. We’ve proposed implementing the long-term procurement requirement of a third independent RPS procurement requirement in the pre-rulemaking amendments. This is the same as the independent compliance option that was proposed at the September workshop. This implementation is simple, straightforward, and consistent with the established statutory and regulatory framework for RPS procurement requirements for POUs.

While it’s not identical to the treatment for retail sellers implemented by the CPUC, we think it’s a comparable treatment for POUs. If a POU fails to satisfy the long-term procurement requirement as an independent requirement it will still be subject to enforcement actions and potentially exposed to penalties, so the LCR still carries the full weight of an RPS procurement requirement.

Also as proposed at the September 10th
workshop, we’re proposing to calculate the LCR based on the lessor of the RPS procurement target and the RECs that are applied to the target. This is consistent with how we’re proposing to clarify the PBR and we’ll discuss that later in the afternoon.

The last point I want to make here is that we’re proposing to allow both the cost limitation and the delay of timely compliance measures to address a deficit in the LTR subject to the applicable statutory and regulatory requirements. This does differ from what we proposed at the September 10th workshop, which suggested that only cost limitations would be able to address the deficit. Either measure, though, is -- we think that allowing either measure is to address any RPS procurement requirement, including the LTR is established -- if consistent with the established treatment of optional compliance measures and how they apply to any RPS procurement requirement in the existing regulations. We also generally agree with the policy arguments that were presented at the September 10th workshop to allow use of this measure, of both measures.
Again, while this isn’t exactly identical -- or it’s not identical at all to the treatment for resale sellers, we think it’s comparable, not identical but a comparable treatment based on the way we’ve proposed implementing the LTR. Retail sellers, if they have insufficient long-term procurement, they can address the target and the deficit that’s caused by that insufficient long-term procurement with the delay of compliance measures. So we think allowing the POU s to address a deficit in the LTR is comparable. That’s a little long way of saying that but you can ask questions for clarifications as you see fit.

So that’s actually all we wanted to cover on this first slide.

We would like to turn it back to you to give us your thoughts on this proposed implementation. If you agree, if you disagree, why or why not? And if there’s specific evidence from legislative history that you want to raise, please feel free to do so.

MS. DERIVI: Hi. This is Tanya Derivi from the Southern California Public Power Authority.
First, we wanted to thank CEC staff for the robust amount of engagement we’ve had on the pre-rulemaking phase, which I think we can all agree has been very helpful to get us to the point we are now, especially looking at an expedited schedule.

I actually wanted to speak on behalf of the Imperial Irrigation District, who was going to have a representative here who, unfortunately, had a family emergency population up, because this is the first time that we see cost limitations included on a slide for this presentation. They really wanted to emphasize the importance of ratepayer impacts for publicly owned utilities that generally serve very distinct communities. We have a number of SCPPA members who almost predominantly serve the disadvantaged communities in impoverished areas. Imperial County, for example, is one of the poorest counties in the state of California.

So ensuring that there are cost limitations and ratepayer impacts front and center for their local governing board is very important going forward, and just wanted to stress the importance of that as the Energy
Commission looks at implementation of RPS rules and other things, like SB 100, going forward.


I think, as we’ve conveyed before, the general consensus among the POUs is support for an independent implementation, but that’s caveated by, I think, that it’s really important that we have the applicability of the delay of timely compliance option.

In the joint comments that we filed on Wednesday, we went through, I think, three different arguments we think that help support that, one of which is if you track how the long-term procurement requirement has evolved in the RPS going back to 2002, it was located in the Section 39913, not as a separate requirement but, originally, it was just direction that the CPUC could approve short-term contracts. In 2006 that was changed to the CPUC could approve short-term contracts if they’d established a minimum procurement requirement. And that’s where this general language had stayed as it evolved.

And then when we were going through in SB
350 and there was this discussion about can we relax the requirements for excess procurement, the compromise is if you relax that, you need to make the procurement, the long-term procurement requirement a mandatory obligation that would be independent of this approval of short-term contracts and, just because that’s where the language was, that’s where the language stayed. I think if there was this expectation that there was going to be a major difference between POUs and IOUs on this, it would have been expressly discussed. But throughout that entire legislative process and through 1393, SB 100, that distinction never came up. It was never anything that was discussed. And so I think that it’s clear that the intent is that all of the optional compliance mechanisms would apply. I think we also went through that the delay of timely compliance really serves and essential function in the RPS compliance. So if a utility has done everything reasonable, they’ve done all the planning that they need to, they’ve taken all the steps that they need to take and then, through no fault of their own, there’s a project that fails or maybe there’s a permitting
issue or there’s a problem with the actual facility, there should be a way that the utility would be excused from their -- any potential penalties. And if you remove this, then that would be a major part of the RPS that the POUs would be exposed to.

And so I think it’s consistent, just with the way that, generally, these types of regulations would be applied, but also with the application that applies for the retail sellers at the PUC.

So I think those are two of the main arguments.

I think we also went through, and Susie did this one, so I might pass it on, too, there’s a real misalignment then, that you would essentially be providing protection for short-term contracts, but you would not be providing the protection for long-term contracts, and that doesn’t really make sense. It would be sort of an irrational way to implement the regulations.

So those are three of the ones. We laid them out in a little bit brief way in the comments. And I think we can go into more detail in the comments on the 17th. But I don’t know if
there’s any initial response or any question whether you think that that provides adequate support for the delay of timely compliance applying to the long-term procurement requirement?

MS. LEE: Anyone else that would like to speak, raise your hand and Greg will bring the microphone.

MS. BERLIN: This is Susie Berlin. I was just curious, does Staff have any questions or feedback based on the preliminary comments that were submitted?

MS. LEE: I think at this point, we’d kind of like to hear the conversation, which may address any clarifications that we need, right now, kind of hear all of the perspectives, even from folks that were not able to submit written. And then we may have some questions, or the Commissioner and her staff may have questions. Thanks Susie.

Could we give the microphone to Greg and let some other folks weigh in?

Oh, yes, please go ahead, Tanya, and then Greg.

MS. DERIVI: Tanya Derivi with SCPPA.
I wanted to reemphasize the point that Justin made. As we get further and further into reaching the 60 percent RPS compliance and the long-term procurement requirement from SB 350, we are undertaking, through SCPPA, a joint powers authority, a number of joint ownership projects amongst POUs. A number of our POUs in the SCPPA membership are actually very small utilities. And we didn’t want to subject them to a potential regulatory requirement where they could be two years into a ten-year long contract and, by no fault of their own, the contract or the developer fails. And that would expose them and their mostly disadvantaged communities to severe rate shocks for regulatory compliance that was noncompliance that was outside of their control.

We have one other SCPPA member who, by phone, could speak to that issue directly for personal impact.

MS. LEE: And we will turn to the phone. Folks on WebEx, don’t worry, we will get to you, I promise.

COMMISSIONER DOUGLAS: Yeah. And when we do, that would be very helpful.

MR. FREEDMAN: Hi. Matt Freedman with
The Utility Reform Network. It’s good to be here. Appreciate the opportunity to talk about this and, hopefully, a bunch of other issues today.

The long-term contracting requirement is really an essentially feature of the revised Renewable Portfolio Standard Program. This was not an accidental addition to state law. It was something that was very deliberatively intended to drive the development of new renewable resources and to ensure that market participants are procuring in a manner that allows us to have confidence that the state is going to meet its goals, which continue to get increasingly aggressive.

We did file early comments on the staff’s proposal. And it does not appear our comments have been taken into account in the revisions. I’d like to address a couple of things that we’ve noticed so far in looking at the revised draft language.

I think at a high level I just want to say that we recognize that publicly owned utilities have engaged in a lot of long-term contracting and in ownership of projects that
goes well beyond a ten-year time horizon. And
POUs have been among the best actors in the state
in this respect. But you cannot assume, in
drafting the rules, that every entity is a good
actor. The rules are designed to address
situations where entities are not acting in good
faith and are trying to skirt the rules. And in
this respect we think that the draft rules miss
the mark in several respects.

First of all, we support the dependent
compliance option, not the independent compliance
option. We think the dependent option
establishes, really, the primacy of the long-term
contracting obligation as a core feature of RPS
compliance and not a side obligation that gets
satisfied on top of other obligations. We think
the dependent compliance approach really
motivates load-serving entities to make all best
efforts that they can to enter into these long-
term agreements. And we urge you to consider
that proposal.

The other thing that we notice is that
the definition of long-term contract is pretty
vague. It simply says a ten-year contract.
There are many types of contracts that a bad
actor could enter into. I could enter into a contract with somebody for indeterminant quantities at indeterminant prices but it’s ten years’ long. I’ll take something from you, maybe in a future year. How are you going to police that?

Not providing any markers with respect to what is an actual long-term contract will invite very sketchy proposals that you may later be forced to deal with. And the Energy Commission has had a number of instances in the past where entities have engaged in bad-faith compliance. And I point to pipeline biomethane contracts that the Commission had to suspend back in 2012. And there’s always this challenge of dealing with grandfathering and going back and providing additional clarifications later.

We’re already seeing some of these, what I would call, sham contracts at the Public Utilities Commission. The pioneers of these appear to be the direct-access providers who are looking for every way to enter into what are in name-only long-term contracts but, in practice, are really short-term or nonexistent agreements that provide no binding obligations on the buyer.
and can never be used to finance the development of new projects.

We have proposed in our comments that a valid long-term contract should include fixed quantities, very specified quantities, over the ten-year duration. That could include, also, a percentage of project output that is defined in the contract. Those are things that could provide much better assurances that a contract really meets the definition of what we would all understand to be long-term.

The proposed rules also allow for assignments of long-term contracts and would base the long-term contract eligibility based on the initial term of the original agreement. While this may seem like a reasonable approach, I can imagine a scenario in which an entity enters into a long-term contract and, effectively, engages in what we’d call slice and dice, where they pass it around one year at a time, assigning -- providing a temporary assignment or one or two or three years to various entities who take that contract and are able to get the long-term credit.

It’s for this reason that the Public Utilities Commission adopted very specific rules.
around what they call repackaging. And I know repackaging is a concept here. But I think assignment looks a lot like that and it could be the exception that swallows the rule.

On a repackaging contract, you have to enter into an additional ten-year commitment.
The buyer must commit to ten years. If you allow assignment to skirt that rule, I think you may see a lot of instances where contracts that are entered into by wholesale market participants at ten years or more are simply passed around to buyers on a very short-term basis, which really could undermine the importance of the rule.

Finally, the requirements of Section 399.15(b)(5), which are the waiver provisions that are mentioned in the draft report and that have been identified already, I just want to point out that the very specific rationales for waivers in that section are not accidental. They were extremely deliberately negotiated.

A number of people in this room, I’m one of them, sat around a table and we spent a lot of time figuring out exactly what features or what rationales could be identified as the basis for a waiver. And they came down to issues around
transmission capacity, contract delays due to permitting and interconnection problems, unanticipated curtailment, unanticipated increases in retail sales due to transportation electrification. These are the only rationales that can be cited under this provision. This is not an open invitation for a publicly owned utility or other load-serving entity to come in and say, I’ve got another reason that’s not on the list, but really it fits within the spirit of this provision.

That is not what the law says. And had it intended to allow any rationale to apply, that’s what it would have said. But you should read the law, understanding that it was the product of a very specific negotiating process. And for each of the exemptions and rationales that a load-serving entity can identify, there is a countervailing obligation on that load-serving entity to demonstrate that they engaged in all reasonable measures in advance to identify, mitigate and cure those problems.

So if an entity comes in and says, well, I entered into a last-minute deal, three minutes before the compliance deadline and, guess what,
the developer didn’t come through, there’s a
deepen inquiry that must take place before that
kind of an argument can be given weight. And,
again, you really should not entertain proposals
to go beyond the specific rationales identified
in that paragraph of Section 399.15.

We’ll identify these in comments and
place more items but those are some thoughts to
lead off the discussion. I’m sure others will
react to that.

COMMISSIONER DOUGLAS: Well, thank you.
And just, too, I want just to encourage you and
others, you know, where you see areas where you
think certain provisions should be tightened, it
would be -- or changed in various ways, I mean,
even giving us proposed line edits and explaining
the rationale for that will be helpful. Because
it’s one thing to say to us, you know, we should
be more mindful of different kinds of contract
transactions and how those could be manipulated
but giving us specific ideas for what we should
ask for or look for would be very helpful.

MR. FREEDMAN: And I’ll certainly do
that. And our comments did identify one such
restriction for the definition of long-term
contract. And we’ll provide others that are specific and can be actually considered in this process.

MS. LEE: Who else in the room would like to speak? Hands please?

Mr. Uhler, I’m sorry, I didn’t see you back there.

MR. UHLER: Yeah. My name is Steven Uhler, U-H-L-E-R.

Contract execution date would seem to be the start of the contract for this long-term calculation. The party that last executes, what if it is as somebody who involves themselves in something, such as solar shares where they are given a share of generation capacity, not actually kilowatt hours, just a share of capacity, does those move into then a short-term contract?

Another area kind of hard for me to figure because I’m really not sure what the definition of an RPS procurement target is. 399.30(a)(1) talks about this as a specified percentage of total kilowatt hours sold to utilities, retail, end-use customers each compliance period. And that’s -- those targets,
it talks about targets being defined in (c). Also, a compliance period is defined in (b). Now the RPS procurement target definition means the specified percentage of retail sales that a POU must secure of electricity products from eligible renewable energy resources each compliance period.

So is there a connection between that definition and the 33 percent renewables for 2020? Does that mean that you have to do 33 percent renewables for the entire compliance period?

MS. LEE: Mr. Uhler, it sounds like we’re touching on a lot of topics that we’ll be addressing later in the presentation.

MR. UHLER: Except that I can’t figure. As a ratepayer, if I’m going to enter into one of these contracts, first of all, would I be the person who would be --

MS. LEE: These contracts would be entered into by the load-serving entity. So as an individual customer --

MR. UHLER: So I could become --

MS. LEE: -- it would not.

MR. UHLER: -- load-serving entity
because I contracted for a percentage of that?
Throughout the regulation it talks about part,
somebody can take --

MS. LEE: Okay.

MR. UHLER: -- part of it. So I would
like an answer to that? Because I would have a
contract giving me part of that generation. I
would be --

MS. LEE: Good. So --

MR. UHLER: -- a load-serving entity.

MS. LEE: -- we can certainly address
that --

MR. UHLER: Okay. Thanks.

MS. LEE: -- a little later in the day.

Thank you.

I believe we had a hand up over here to
the right.

MS. SAMRA: Hi. Mandip Samra from the
City of Pasadena. And I really appreciate the
CEC holding this workshop because I think it
provides a great opportunity for us to discuss
some of the issues.

In reference to long-term contracts, I
will say that Pasadena does have an aggressive
voluntary goal of 40 percent by 2020, as well,
but we do have a lot of unavoidable long-term contracts that we cannot get out of. So a lot of our direction from our governing board has been to do maybe 11- to 15-year contracts until we have that open space after long-term contracts dissipate and go away.

So I do want to let you know that we have entered into contracts that are long-term prior to the rules being put in place but they have, you know, different types of portfolio categories. But there is a certain amount of renewable energy that is delivered year to year. But the only way to secure some of these contracts was if we bundled them with other projects, such as PCC-1, PCC-2, PCC-3. So when we signed those contracts, we definitely did it with the intent of meeting the long-term requirements, they are 11 years, but there are zero megawatts for a few of the years in between, so that’s one of the clarifications we would like to seek, but there is generation every year for the entire 11 years there is generation coming in at a set amount. But for some of the portfolio content categories, there’s zero.

But it is an 11-year contract, so we are
asking for just some clarification. Because we went to the board, and this is kind of the discussion we had with their board, was the intent that both categories or all three categories would be long term. And I’m sure the CEC is aware, it’s really difficult to find any PCC-2s or 3s out there that are long-term, so you really focus in on the ones. But we are trying to just be very pragmatic in trying to secure everything in a long-term manner if we can, and that’s what we’ve been trying for, but it’s really difficult.

But we do want to also just thank you for the optionality. And we are pushing for some of these contracts to be grandfathered because we did it with the intent for this to be 11 years and we would like to work very closely with you to kind of figure that out, so, yeah, but thank you so much.

MS. LEE: Okay, Greg, I’m going to ask you to go into the second row for folks that haven’t spoken yet.

And then we will come back up to you, Justin and Susie.

MR. CHOW: David Chow with Roseville
Electric. I just wanted to thank the Energy Commission for having this workshop today and taking our input. The regulations, for the most part, look very good. And we have just a few questions and clarifications but wanted to provide, sort of on the same note as Pasadena, a sort of example of why it might be helpful to have a bit of flexibility for some of the contracts.

As we mentioned before when we had a workshop a few months ago for the long-term procurement, it’s helpful to have the flexibility because you don’t know -- you can’t account for every situation, and it does keep our costs down for our consumers. So similar to Pasadena, we had a bundled Category 1, Category 2 and Category 3 long-term contract. And an interesting feature of this is we had them deliver the RECs and the energy by compliance period, not by calendar year.

So one thing we wanted to clarify, again, similar to Pasadena is whether that would count as long-term procurement or not and, you know, making sure that, theoretically, this contract could only deliver three years out of that ten.
But it goes back to the principles and what California is trying to accomplish; correct? We want to encourage the development of new renewables. And we want to make sure that existing renewables are supported and they’re not left stranded.

To give you another example of why flexibility is important to enable the development of renewables, we developed, went into a contract with PG&E for Blackwell and Lost Hills. So the way this contract was structured for Roseville Electric was we took on the frontloading of the energy, because PG&E did not need it, and then we sort of swapped with them and we went down to one percent in later years in order to have it count as long term and meet our needs but also, you know, make sure that this project was actually viable. If we put in too many restrictions without knowing, you know, what the future regulations could be or what the particular needs of particular entities are, I think the end result is going to be discourage renewables or at least raise their prices.

And as, you know, a good actor, we want to make sure that we’re, first of all and
foremost, meeting all of the requirements but also protecting our consumers and providing them safe, reliable and affordable energy.

So, you know, again, just going back to principles, we want to make sure that these rules are, I think, encouraging new renewables and sustaining the existing ones. You know, California is a leader in developing renewable energy and addressing climate change. But I want to remind the Commission, which I’m sure you know this, we cannot be leaders if we do not have people following us. If these rules are too, you know, restrictive or too -- or result in renewables that are too expensive, we’re going to be doing this alone.

So just wanted to provide that input.

Thank you.

MS. LEE: Thank you. Can you pass the microphone forward to Susie?

MS. BERLIN: Good morning. Susie Berlin.

Thank you. I want to make two points.

One, on the contract flexibility, we certainly think that the rules should be in place to avoid sham contracts. But I also think that we should avoid labeling a contract a sham simply
because it doesn’t include requirements that some people think should be in there. The requirement is for a long-term agreement. And that long-term agreement can take many different forms.

As long as it’s incentivizing a long-term investment, it should not be unduly restrictive so that the long-term investment comes with minimum requirements for every year and whatnot. That’s not the statutory requirement.

And I think that, as David and Mandip and others have said, trying to put too many restrictions on these requirements without looking at the statutory intent of a duration of a contract is going to be counterproductive to development projects and end up costing ratepayers a lot more.

The other point I want to touch on is in response to something that Matt raised with regard to the waiver provisions. And we agree that the waiver provisions -- I wasn’t one of the people in that room at that time when those were developed, but it is clear that they’re very tailored and they’re aimed at addressing specific real-world issues that cannot be avoided in some instances, and that there are requirements to
demonstrate why they cannot be avoided. And we think that those provisions are particularly
germe to long-term contracts and don’t see that the applicability of those waiver provisions to
the LTR requirement is in any way seeking to expand them. As worded they’re -- and as drafted in the regulations currently, and the statute, they include very important protections that are necessary for long-term contract delivery.

And I’d like to, if Justin doesn’t mind, pass it to Scott to give a specific example in real-world/real-time of why that’s so germane to this discussion.

MR. TOMASHEFSKY: Thanks Susie.

Scott Tomashefsky. I’m a NCPA.

And in the unfortunate nature of dealing with wildfires, we actually now have experiences with dealing with those. We have two plants within the NCPA family that have been impacted and are still out. One goes back to our geothermal plants. We have 100 megawatts of load that’s generally running off of two particular plants. One of the two lines, the transmission line that takes power out of the, will be down through March. And, really, we have -- we’re
subject to whatever PG&E has to do to get that line operational. So, effectively, half of the generation for roughly a five- to six-month period is now offline. And that is a major resource, especially for some of our smaller members, and for our larger members as well.

But it does create some challenges in terms of dealing with trying to get replacement generation. And if you have that happen at the end of a compliance period, you don’t have the ability to catch up, so you start to get into the issue of -- things happen during a compliance period but if it happens late you don’t have the ability to make amends to that, if you will.

And the second one is, as in the Santa Clara, there’s a 20 megawatt hydro plant that’s on the upside of the camp, where the Campfire went down, the transmission line has been down since, for more than a year.

So there’s two instances where you actually have renewable generation that’s not available that needs to be replaced. And the suggestion that, if something happens, there’s not going to be some alternatives addressed to try to take care of the situation is not the case.
because you’re looking at trying to replace some
of that particular power. It’s not an
opportunity to just take a pass on the situation.
It’s just trying to find the best ways of
complying. And there’s a cost implication
associated with that. If you’re turning around
and you’ve got power you were expected to have,
you still have debt service to pay on that, and
you have to replace that power.

So these waivers and exclusions are
not -- I would almost characterize those as
accommodations to address trying to be compliant
with the rules. You know, the intent of all of
this is to try and make sure that we’re all
successful in dealing with renewables and not to
try find ways out of it. And to the extent
you’ve got the majority of folks looking at that,
we just have to make sure that the regulations
allow us to address that without finding
ourselves in a noncompliance situation,
especially when it’s situations we don’t have
control on.

MS. LEE: Okay. We have Justin. There’s
a gentleman in the back of the room. And then
we’re going to go to a hand raised on the WebEx
before we come back to the room.

MR. WYNNE: Thanks. Justin Wynne for CMUA. Just one clarification to something that Matt had raised.

My understanding, when looking at independent versus dependent is that if you took any real-world scenario and you looked at the actual impact of whether there would be a shortfall, that they would be equivalent. So if -- whether it’s a portfolio balance shortfall, procurement quantity shortfall, or a long-term shortfall, your penalty exposure would be the same. And whether it’s dependent of independent, when you actually run the math, through most scenarios, it would be the same number of megawatt hours. And so I wouldn’t view independent is treating this as an afterthought and that the end result and the penalty exposure is the same.

And so I don’t see there being the significance in the same way as what TURN had raised. But it would be helpful if my understanding of that is correct -- incorrect. And maybe it might be worthwhile to work through some examples to make sure that that is true. I
understand that you might be able to maximize by over procuring some resources that would not be -- would not count as a sort of penalty reduction scenario but the actual shortfall would remain the same.

On the issue of assignments, so POUs are public agencies. Their contracts are typically approved at public meetings. I don’t think that there’s going to be a situation where we’re going to have rapid fire assignments out to multiple entities. I think there would have to be -- that’s just not something that makes sense based off of my understanding of how contracting works for POUs.

And I think one of the things that TURN also mentioned was that you can have a wholesale agency procure a long-term contract and then assign that out, that’s not my understanding of what the Energy Commission’s proposal is, is that if a POU has a contract, and say they lose their largest customer and so they don’t need this generation anymore, there’s another POU that has the need for some long-term contract, they could go through the assignment process, which is not simple. It has to get -- the financing and
everything else has to get approved. It has to go through their approval process. So it’s not a simple thing they would do quickly but you’d have one POU assigning a project over to another POU but there wouldn’t be a third party that would have one contract and then assign it out to multiple POUs. That’s not what we’ve proposed.
That’s not my understanding of what the CEC is proposing.

And then sort of to Scott’s point, and then what Susie had mentioned, I know don’t think any of the POUs have supported that you would have the delay of timely compliance, just compliance of anything. I think we recognize that there are some statutory conditions there. And I think that’s all that we are asking for is that those do apply to long-term procurement, not that there would be different standards.

MS. LEE: Okay. Thank you.

Greg, the gentleman in the back of the room.

MR. WONG: Thank you. My name is Basil Wong. I’m with Silicon Valley Power, Santa Clara.

To support Scott’s comments, Santa Clara.
is one of the MCEs. We are about 600 megawatts peak. We have shares of the geothermal project that is now stranded, as well as the Grizzly Project, which has also been stranded for over a year with no end in sight as to when PG&E would bring back transmission to that power plant.

It’s that uncertainty that causes concerns for us. And we want to address our customers concerns of wanting and using renewable energy that we would need to go out and procure alternatives to replace those -- some of those long-term contracts while they’re in outages.

We also have -- we also support having these alternative compliance mechanisms because there could be a confluence of events that could happen that could -- that we would need optional compliance. For example, we were just made aware of some delays in some of our future projects, one being stranded because there’s lack of transmission, and the other one is being held up in permitting by -- that’s now involving the State Attorney General.

So some -- if you have that, combined with load growth -- you know, as you probably all know, we have data centers that are coming
online, so we see extreme load. We see some significant load growth over the years, combined with outages that are out of our control, combined with delays of project developments, could produce some situations for us where we would need to use alternative compliance measures.

Thank you.

MS. LEE: Great. Thank you. We’re going to go to the hand raised on the WebEx.

And then, Matt, we’ll come back to you.

We do want to take a break and address Justin’s suggestion of maybe confirming with an example what the intent was on the independent option if penalties would equally apply. So we’re going to also ask Katharine to speak to that. And we are watching the time on this topic.

So on the WebEx?

UNIDENTIFIED STAFF MEMBER: This question is from Rebecca Gallegos. I’m going to go ahead and un-mute all call-in users to allow her to speak.

MS. GALLEGOS: Hi. This is Rebecca Gallegos from the City of Colton. And Colton
wants to say we really appreciate the consideration for delay of timely compliance for an optional compliance measure because Colton is a smaller utility and we are in about a 96 percent disadvantaged area. So our real concern is we enter into long-term agreements but because our load is about 41 megawatts and double in the (indiscernible), most of our contracts raise from 5 to 15 megawatts and (indiscernible) 20 years or more, generally. But if one of those can’t deliver for something that’s out of our control, we want to be able to fill that void with a short-term procurement.

Like we have an example. We’re part of a landfill project that when we entered into it in 2015, we expected ten megawatts and second year in we’re only getting six because it’s degrading that fast. But we don’t know if it’s really going to go the whole 20-year term of if it’s going to last 8 years.

So when we get to that point we need to have that flexibility to find what’s going to meet our ratepayers because we don’t have the ability just to go in and adjust our rates.

So that’s all we -- our concern is and we
really appreciate that consideration.

MS. LEE: Thank you, Rebecca.

We’re going to go ahead and, again, mute all the WebEx callers. If you do have a comment, please, again, type that into the chat function of use the raise-your-hand feature.

Matt, you had another comment?

Greg, do we have the microphone for Matt?

And the Katharine, again, is going to revisit the example.

MR. FREEDMAN: Thank you. Matt Freedman on behalf of The Utility Reform Network.

Just to respond to Justin, who had said, and I think everybody here would agree, that the intent of the assignment provision is to deal with situations where the publicly owned utility itself is the counterparty and assigns the contract. And I would bet that 99 of 100 people here would say, yeah, that wouldn’t apply if it’s just a whole contract between two wholesale parties, but I don’t see that in the language.

And there’s the understanding we might have, as reasonable people sitting in this room, and then there’s what bad actors would attempt to do years in the future, looking at the letter of the
language and saying, well, I don’t see any
prohibition that creates a problem here.

So I would encourage the Commission to
think about this. We’ve already seen situations
at the PUC where load-serving entities there are
attempting to rely on long-term wholesale
contracts of which they’re getting a piece or a
slice over a shorter term as the basis for
compliance. And it would be great to clarify
that that’s not permissible under the assignment
provisions here.

COMMISSIONER DOUGLAS: So, Matt, that’s
very helpful. I’m just going to speak up again
and encourage you and encourage all, everyone
here, to give us suggestions for language. We
are on a timeline in which it’s not always
going -- you know, it will be helpful to us to
get our language right on the first try. And
therefore, to the degree that you can work with
the POUs and clarify some things that really may
be joint understandings but, of course, might be
written differently and might lead to
misunderstandings unless you talk first.

I mean, to the extent that stakeholders
can work together and get us consensus comments
on things where there is agreement, that would be just very helpful.

MR. FREEDMAN: Okay. Thank you.

COMMISSIONER DOUGLAS: Thank you.

MS. LEE: Okay. Katharine, would you mention the -- yeah.

MS. LARSON: Yeah. So we actually had an example of how the impacts for the independent versus dependent LTR options would vary in the September workshop. And I think some of the comments that we got at the workshop is that, as a practice matter, depending on the procurement application decisions that a POU made, there may or may not be a difference in the outcome. However, if you assumed that a POU applied, depending on the application decisions that they made, there could be a very real difference in the outcome of the two calculations.

So under the independent compliance option if a POU has insufficient long-term procurement and it comes up short, that’s just a straight calculation, whatever your LTR was, 65 percent of target minus the amount that you applied, that’s the amount that you’re short, so it’s just a straight calculation. What you
needed minus what you applied is what you’re short.

In the, excuse me, dependent compliance calculation the compliance with the target depends on meeting that 65 percent LTR threshold and so the calculation isn’t as straightforward. Essentially, you are reducing the amount of short-term procurement that can be applied to conform with the ratio of 65 long-term to 35 percent short-term. I could give some example of numbers quickly. It may not make a lot of sense without having the table in front of you to go through every single step.

But for an example of a POU that has a procurement target of 100,000 RECIs, they had long-term procurement requirement, in principle, of 65,000 and they only apply 50,000 long-term RECIs to satisfy that target, their deficit, their initial deficit, is the difference between the LTR, which is 65,000, in principle, minus what they applied, 50,000, and so for the independent compliance requirement it comes out to a deficit of 15,000 RECIs.

Under the dependent compliance option, you’ve only applied 50,000 long-term RECIs, so you
have to start reducing your short-term RECs until the ratio of long-term to short-term is 65/35. At that point you have to disallow, let’s see, I have this number somewhere, 23,000 RECs, approximately, in order to come into that ratio. So the actual amount of deficit depends between -- does actually depend between the two different implementation options. We can potentially pull this up later for reference, get copies of this paper to pass out, but I think it might be helpful to revisit the examples in the September LTR paper.

MS. LEE: And I just want to add, I think at the core of Justin’s question was would the penalty structure apply equally on the requirements, on the three requirements, as proposed in the independent proposal? And the short answer there is, yes. The short answer is any deficit could be addressed in this as proposed by an optional compliance measure or would be subject to a penalty structure if that deficit was not addressed sufficiently by an optional compliance measure. Yeah.

Any other questions at the table?

MS. BERLIN: So, Katharine, I just want
to be sure, you’re talking about the examples that were in that initial implementation paper?

MS. LARSON: Yes.


MS. LARSON: But, of course, these are just examples based on assumed procurement decisions, depending on how a POU actually makes those procurement application decisions, the results may vary, so --

MS. LEE: Oh, yeah, Tanya.

MS. DERIVI: Sorry. Tanya Derivi with SCPPA. Not to belabor the issue but also wanted to address one other issue raised by Matt Friedman with TURN about trying to ratchet down the ten-year requirement to potentially make it more stringent.

We, at SCPPA, are already running into problems with being able to guarantee a firm amount of power delivered for a renewables contract. And this is a contract that was mandated by the State of California that we enter into for renewables, specifically biomass, first for five years. And then we are mandated to seek to extend it for another five years, which would
make a ten-year-continuous contract for an extremely expensive RPS resource that the fuel suppliers for the developer are already having a difficult time meeting.

And we’re also being told that not only is this contract intended to reach RPS goals but it’s also intended to reach climate change-related goals due to California’s exposure to catastrophic wildfires. These are resources that are far removed from Southern California utilities. They’re extremely expensive. And would, in a real-world practice sense, have an extremely difficult time reaching a regulation that would say the developer must produce X amount of power every single year when they’re having issues with getting the fuel to the plant to produce the renewables. So that’s just one example we wanted to put out there for you.

MS. LEE: I’m actually really glad you spoke to that. This is an area that we did receive some early comments on and we were silent on in the proposal to date, and that would be any regulatory or mandated procurement, how that would be treated within the LTR if the mandate potentially was short-term in nature. So we are
silent currently so this is an opportunity,
certainly, to solicit additional comment on that.

Due to time considerations, I’m going to ask for one last show of any critical points that have not already been raised in the room.

Tony, please.

MR. GONZALEZ: Hi. My name is Tony Gonzalez and I’m with SMUD. And, again, we appreciate all of the Commissions and the Commissioners hard work on this.

And I don’t know if this falls as a critical point but just to add a little bit to the flexibility on the definition of contract term, there certainly are many situations under a long-term contract where the generation that’s delivered throughout the timeframe could be less than what’s expected in the contract. Just like the wildfires, SMUD does have, not a wildfire, but we do have a very small hydro facility that had some major damage that was down and will be down for a while. And so the generation that we receive from that is going to be significantly lower or zero for a number of years. And that should not cause any issues or cause the nature of the long-term contract to be considered short-
term.

The other consideration is that we do have long-term contracts. And while we haven’t necessarily really resold energy from those over short periods of time, you know, SMUD does have a significant surplus. And there may circumstances in which, you know, a utility may decide to resell part or all of the generation from a contract for a year or two, not the assignment, so the resale would not be considered long-term for the purchaser. But that should not affect the nature of the long-term contract, the original contract that, for example, SMUD would have with somebody just because we sold off all of the generation or part of the generation or didn’t receive RECs for a year or two, either for over procurement or for other financial considerations.

MS. LEE: Thank you, Tony.

Do we have anything -- any more hands raised on WebEx, Ryan? Okay.

All right, Commissioner Douglas.

COMMISSIONER DOUGLAS: So I’ll just make a brief comment.

 Obviously, on this issue, your continued
comments and written comments will be helpful. I just wanted to speak one more time to the concern that Matt raised about the implication, and Justin, about the implications of the independent versus dependent approaches. I think my perspective is that, really, regardless of which approach you were to take the Commission’s role would be the same in adjudicating the facts behind noncompliance. The underlying facts would be the same and the statutory scheme is the same in terms of what the legislature intends and the increased importance the legislature placed on long-term contracts in this.

And so I do want to just say that from my perspective, I don’t think that, for example, the proposed method understates or undervalues the importance of long-term contracts. I think the legislature spoke on that. But to the extent that there are remaining concerns or to the extent that there is language that you want the Commission to consider, or to the extent that you think that we’ve missed something, you know, obviously, please get that to us in comments.

So thanks.

MS. LEE: So in the initial structure of
the presentation, Katharine had broken some of the topic areas into three slides. We’ve actually had a really great conversation around most of the content in those other slides as well. She’s going to go ahead and walk through those. If you have additional comment beyond what’s already been raised we, of course, encourage you to raise your hand, but we think we may be able to move through these next two fairly quickly. Okay.

MS. LARSON: Great. Thank you.

So we did touch on these topics, as Natalie mentioned, but I just wanted to highlight here how we propose treating the amendments and assignments in the pre-rulemaking amendments, how we propose to measure contract duration, and how amendments to a contract can or cannot affect that duration, and how we have proposed to treat amendments and assignments that do not specifically modify the contract duration, what could be considered in changing the nature of a contract?

And as was pointed out, this is fairly vague in the pre-rulemaking amendments, so we really appreciate specific suggestions of areas
that we need to make the language more clear, for instance, or particular issues to address.

I’m going to move quickly onto the next slide, just to tee this up. And then if there are any other comments, we can go through them.

Just briefly, the voluntary early compliance process in the regulations is the same as what was proposed at the September 10th workshop. The POU can adopt governing -- the governing board can adopt rules that permit a voluntary early compliance election with the LTR. In the pre-rulemaking amendments, we characterize PCC-0 and start carryover as long term by definition because they meet the requirements for counting in full toward the RPS procurement requirements. We do propose treating pre-June 2010 differently because that procurement does not meet the requirements to count in full toward all RPS procurement requirements.

The last item we wanted to hit is that the LTR as written in the pre-rulemaking amendments applies to all POUs, even those who have special exemptions or procurement target adjustments, or maybe aren’t subject to the PBR requirements. And we wanted to make sure if
there are -- if you have comments in that, to
please let us know.

And with that --

MS. LEE: Okay. We have one comment, or
maybe more.

MR. GONZALEZ: Tony Gonzalez with SMUD
again. And I think the pre-June 2010 procurement
treatment, we included some comments in our
initial comments. We supported all of the joint
comments and then we just added a couple of other
ones.

I think from our perspective the pre-June
2010, we believe, should be considered long term.
There were a couple of arguments we had.

One, they are, well, I guess technically
not count in full, which I misstated in my
comments. They are treated very similarly or
almost identically to the way you treat a PCC-0.
They are contracts that were in place prior to
the June ’10 timeframe, they just couldn’t be
certified at that time. They are retired, at
least from SMUD’s perspective, as a PCC-3 but
they are excluded, or they’re actually subtracted
before the calculation of the PBR calculation, so
they come out of that. They don’t count as a
PCC-3 in looking at the PCC-3 maximum amounts allowed. And so they really look and feel like a PCC-0 and we feel that they should be considered long term.

The other thing is that by the times these regulations are adopted we’ll be more than ten years past that date. And so the likelihood that any of those, which are probably a very limited number of contracts that are out there, are not long term, may not -- may be something that just isn’t worth kind of having to do that. So we feel that they should be kind of grouped in with the PCC-0 and the historic carryover.

The other item that I have, and it’s not necessarily fully addressed here but it is -- it ties to the contract amendments and what constitutes a significant, or whatever the exact term is, amendment and that’s with regards to the capacity increases. And it’s the nuance of a biomethane contract where we have pipeline biomethane where the biomethane contract doesn’t change. But SMUD had some recent upgrades to our facility, our (indiscernible) this power plant where the capacity was increased just due to efficiency upgrades. There was no change to the
biomethane contract but that constitutes a significant change that requires a full amendment.

And so we’d ask that you kind of revisit that and maybe take a look at those special circumstances where, really, that’s not changing the amount of generation that’s going to come out of that contract, it’s not changing the biomethane that’s provided. But because of the nuance there of the capacity change being considered a significant change, it requires a full amendment. So just something that we’d like you to kind of consider.

MS. LEE: Thanks Tony.

I saw a couple possible hands. Okay.

MR. OLIVARES: Good morning. David Olivares here from Modesto Irrigated District. MID appreciates the opportunity to provide comments today in this process. As we preliminary commented in our preliminary filed comments, we’re in support of the comments that have been filed by CMUA, as well as jointly with NCPA and SCPPA, as well as those filed and discussed by M-S-R Public Power Agency. Rather than reiterate those comments, I want to focus on
this specific slide. MID appreciates Staff affirmation that the qualifying electricity products in Section 3202, it has -- as it has pertained to the PCC-0 products is proposed for the classification of long-term and short-term procurement requirements outlined in the amended Section 3204.

MID notes, though, that the assignment provisions explicitly addressed within the long-term procurement requirement section in 3204(d)(2)(F) of the proposed amendments are also consistent with the original intention of the criteria for the categorization of electricity products as PCC-0. As such, MID recommends that the regulations also clarify that these types of amendments would not alter the PCC-0 categorization of the electricity products.

Because the amendment and assignment conditions were addressed in the new amended sections pertaining to the long-term and short-term classification of agreements, MID would recommend that the Energy Commission directly apply the same language on amendments that effectuate assignments that don’t touch the PCC-0 categorization triggers, like the post June 1st,
2010 amendments that increased (indiscernible) capacity or substitute a different renewable energy resource.

Providing this clarity is critical in that it allows for utilities to clearly assess the risk associated with transactions that would otherwise be beneficial to our ratepayers while the state advances its clean energy policy. This level of certainty is required so that utilities are able to make decisions on potential opportunities that could provide significant cost savings to our ratepayers. If MID does not have this level of certainty, for example, we could potentially forego a contract amendment that would result in foregoing a $20 million benefit to our ratepayers over a five-year period without otherwise altering the essential terms of the agreement.

MID appreciates this opportunity to comment today and we’ll be filing written comments as well.

Thank you.

MS. LEE: Greg, I think Scott, here in the front row, has it. Thanks. Thank you, Greg.

MR. TOMASHEFSKY: Thank you. Scott
Tomashefsky again. I just wanted to just issue our support for the treatment of PCC-0, especially as being characterized as long term.

And, again, going back to some of our smaller members, a significant amount of their load is tied to PCC-0 resources which does actually include continuing investment in those particular projects to make sure that they’re actually viable going forward. So the extent that someone wants to make an argument that there’s nothing going on in terms of renewable development, even in a project that’s existing, we have a good example of that up at the geysers.

The importance of PCC-0 from a long-term perspective is that we want the growth of renewables to really reflect looking at new projects. And the last thing that I think the state wants to do is have -- look for alternatives that sort of devalue the benefits that are being provided by existing plants. Some of these longer-term plants are important. And as the RPS threshold gets higher what you’re going to find is, you know, we’re going to start to get into those areas where have to go ahead.

This is sort of a short-term situation
for those that are concerned that that should not
-- that a PCC-0 shouldn’t be considered long
term. At some point every utility in the state
is going to be looking for additional resources.
And so this allows existing resource stock to not
be devalued which is extremely important.

    MS. LEE: Thank you, Scott.

    Okay, I think we’re ready to move on.

    Again, written comments will be valuable.

    Oh, do we have another hand raised? Oh,

    they snuck it in there. Okay.

    Rebecca? Okay.

    MS. GALLEGOS: Okay. I just, on

    assignments, I had one other comment.

    We are in support of assignment being

    allowed, not because we assign our contracts but

    we have instances where, through SCPPA, we have

    multiple members participate in a project because

    Colton will only need small amounts and we can’t

    subscribe to a large. And we have, on occasion,

    found it makes more economic sense and it’s

    better for our ratepayers if we either assign a

    small amount, you know, our interest to another

    member, or in our case we have swapped equal

    shares of two different projects, just because it
made more sense to us when we were maybe three
years down the road. And if we weren’t allowed
to consider that as long term, even though the
contract itself is, it would be detrimental to
our ratepayers.

MS. LEE: Thank you, Rebecca.

All right, Katharine, are you ready to
move into our next topic?

MS. LARSON: Okay, so next we’re going to
talk about excess procurement. There are just a
few topic areas to cover here, the new
requirements for compliance period four and
beyond, some special considerations for prior
accrued excess procurement, requirements for --
some clarifications and changes to requirements
for compliance periods one through three.

So the pre-rulemaking amendments
incorporate the -- (clears throat) excuse me --
SB 350 changes that modified the rules for excess
procurement, concurrent with the effective date
of the long-term procurement requirement.

Specifically, PCC-2 can no longer count as excess
procurement, and contract duration is no longer
relevant for the purposes of calculating new
excess procurement. PCC-1 of any duration can be
banked if there’s excess. And short-term RECs are no longer subtracted in the excess procurement calculation.

We did also make a clarifying change in the regulations that excess procurement can only be banked in a given compliance period if a POU has met the requirements for that compliance period, all RPS procurement requirements for that compliance period without use of another optional compliance measure, like cost limitations or delay of timely compliance.

I think I’m going to move on, because these are all pretty similar, and then we’ll have questions at the end.

The next aspect we’d like to tee up is the treatment of certain types of previously accrued access procurement. The pre-rulemaking amends require a POU that has previously accrued a PCC-2 excess procurement to apply it no later than compliance period four in order to harmonize existing rules for the application of excess procurement with the SB 350 changes that specify that PCC-2 RECs can no longer be counted as excess procurement. We are proposing the same treatment for POUs that elect for voluntary early
compliance beginning in compliance period three,
so no difference in the treatment for those two
as currently written.

We also propose clarifying that excess
procurement that is accrued in compliance periods
one through three should count as long-term for
purposes of satisfying the LTR when it is applied
in a future compliance period. We recognize that
the proposed requirements for contract duration
change from what was considered previously for
excess procurement in compliance periods one
through three and what is relevant now for the
LTR for compliance period four and beyond.
However, we think that the excess procurement
that was previously accrued based on the
requirements in place at the time for a ten-year
contract should be able to retain the full value
of that when it’s applied in a future compliance
period for purposes of satisfying all RPS
procurement requirements.

We do want to clarify here that this
treatment is specific only to the prior bank.
We’re not proposing to extend it to grandfather
any contract that was entered into prior to the
long-term procurement requirement. It’s only
specific to the existing bank.

The last topic I want to touch on really quickly is a few clarifications that we made for compliance period one through three. We tried to -- first of all, we made the same clarification that we did for compliance period four and beyond, that you can only bank excess procurement in a given compliance period if you’ve satisfied all of your procurement requirements without using other optional compliance measures.

We made some minor changes to the equation that’s used to calculate excess procurement to better align with important in CP-1 and CP-2 and, hopefully, make that a little clearer and easier to follow.

We also provided the option in CP-3 for the compliance period four rules to apply early if a POU elects for voluntary early compliance with the LTR.

And that’s all I have to tee up these topics but we imagine there’s some input that we’d like to share.

MS. LEE: Okay. So on the broad topic of excess procurement, who wants to start?
All right, Greg. Thank you.

MR. CHOW: Thank you. David Chow again with Roseville Electric.

So we like most of these proposals and would support them. We just have sort of one minor request or clarification regarding the treatment of banked bucket two, PCC-2 and their use after 2020.

In Roseville’s situation, we realized a few years ago that we could apply the self-generation rule to our load. And, basically, I won’t bore you with the calculations, but that left us with a certain amount of excess banked bucket two RECs. And we’ve sort of been looking out past 2020 and seeing how we could apply that.

We have about low to mid five-figure amounts of excess banked bucket two RECs. And our concern is, while to a certain degree we could move back some RECs post 2021 for bucket two and retire them in later compliance periods, we’re not going to be able to retire all of our excess banked bucket two RECs in compliance period four. And it would also limit our flexibility in terms of retiring our RECs.

So we’re not asking to, you know, use
these into the future indefinitely. We have a,
you know, definitely limited amount of banked
bucket without RECs that we’d like to retire.
And we’re just requesting that we extend their
application out to compliance period five so we
can retire them in an orderly manner and protect
their value for our ratepayers.

Thank you.

MS. LEE:  Thanks, David.

Anyone else like to speak on this topic?

Wow. Surprisingly quiet.

Do we have anyone on WebEx? All right.

MS. SAMRA:  This is Mandip Samra.

MS. LEE:  All right.

MS. SAMRA:  And I’m from the City of
Pasadena. I do want to echo and support what
David just said as well.

As I mentioned earlier, we did some
pseudo long-term contracts for PCC-2 RECs in
order to comply with some of our requirements.

However, we are seeing a pretty significant
decline in our retail sales going forward, even
with transportation electrification put into it.

So it is possible that we may have some excess of
PCC-2s and we would like some flexibility there.
to be able to use them beyond the 36 months, or if we do have excess when we retire them to use them at different times because they were quite expensive in comparison for a long-term.

Thank you.

MS. LEE: And another comment in the back of the room here, Greg.

MR. WONG: This is Basil with Silicon Valley Power. Just a question here.

When we say that excess procurement may not be banked unless we meet all RPS requirements, well, what if we don’t meet our LTR or our long-term procurement requirement but we still have excess procurement, excess procured RECs?

MS. LEE: So, as proposed, with the LTR being an independent requirement, you would not be eligible to bank any excess procedure.

MR. WONG: And so that, I mean, that becomes a little bit of a problem; right? Because we have excess -- if we have excess procurement but we can’t meet our LTR because of these extenuating circumstances or confluence of events, we kind of need to be able to bank some for excess procurement for future uses if we do
have excess.

MS. LEE: So that would be an issue to explore in your written comments for us, the specific scenario that you’re envisioning and what you would recommend as a solution there.

MR. WONG: Okay. Thank you.

MS. LEE: Is there anyone -- so we’ve heard support of the approach -- anyone -- and some requests to extend the eligibility of PCC-2 beyond compliance period four, which, as proposed, harmonizes with CPUC’s implementation.

Any points of concern in the room if we were to consider extending? No hands.

If we were -- the request in the room -- I see some confused looks -- the request in the room was to consider extending the use of PCC-2 excess procurement banks beyond CP-4 into CP-5.

Okay.

Any raised hands or chat on the WebEx?

Okay.

Commissioner, anything else you’d like to explore? Okay.

Let’s move past excess procurement and into changes to the optional compliance measures.

As Katharine starts these slides, I do
just want to frame that this reference to
optional compliance measures is to look at the
proposed changes, not the use of optional
compliance measures for specific -- or the delay
of timely compliance specific to the LTR. So
we’re not stepping back to the LTR here, we’ve
moving into a different area of comment.

Katharine?

MS. LARSON: Thanks.

So the three areas of change that we’ve
made in the regulations are for cost limitations,
delay of timely compliance, and the PBR
reduction.

So for cost limitations, we have updated
the regulatory requirements for cost -- using
cost limitations in parallel with the changes
from SB 350 that removed some certain statutory
restrictions on the use of these measures.

Separate from those changes, we’ve added
a clarification to one of the existing regulatory
requirements for cost limitations, specifically
that a cost limitation should include panned
actions in the event that the procurement
expenditures exceed the cost limitation amount.

And we’ve done so, to provide guidance, just by
providing an example of what such an action might be.

We’ve also made some changes to reporting, both to conform with implementation in compliance period one and compliance period two, and to ensure that we get complete reporting related to a POU’s adoption and application of its cost limitation rule.

For delay of timely compliance, we have updated the allowable conditions for delaying timely compliance based on changes from SB 350, but modified conditions based on unanticipated curtailment to specify that the waiver cannot result in an increase in greenhouse gas emissions.

Also, added a condition based on unanticipated increase in retail sales due to transportation electrification. Our intent in the pre-rulemaking amendments was to incorporate this condition in a way that minimizes duplicative requirements or forecasts from what already might be used. But we understand, from the initial comments, there might be concerns on how we’ve sought to provide that option, so we’re certainly interested in having more of that
discussion now.

In addition to the statutory changes -- or incorporating statutory changes, we also made minor additional clarifications to better identify the information a POU needs to report to us, showing that it experienced one of more of the causes for delay that’s allowed in law, which is consistent with our implementation to date.

Finally, on PBR reduction, there actually haven’t been any statutory changes driving changes to these requirements, but we did propose minor clarifications to remove a requirement that we thought was duplicative, as well as notification requirement, and provided additional guidance on reporting, again, consistent with implementation to date.

MS. LEE: Okay, now’s your turn. Anyone have any comments they’d like to make on these changes?

MS. SAMRA: This is Mandip again from the City of Pasadena.

Not that we intend to do this or we would ever take advantage of this, we really hope it never happens, but with the delay of timely compliance, if there is an unavoidable
curtailment, most likely it’s probably due to our import limitation, and we do have a severe import limitation. So if something were to happen to prevent resources from coming in we would have to run our internal gas units, so that would lead to an increase in natural gas -- or, sorry, natural gas facilities, so an increase in greenhouse gas.

So in certain instances where there are POUs that have an import limitation where there is a curtailment for a very long time or, for some reason, a transmission line is out where we can’t bring any energy in, then we have to rely on our natural gas units. I don’t know how we could apply for this and still meet the requirements and just kind of -- it would be something to talk offline about, but just a consideration. I think there’s several POUs out there that have similar considerations.

MS. LEE: Is there anyone else in the room that would like to speak on this topic?

Justin, are you thinking about it?

MR. WYNNE: Thank you. Justin Wynne for CMUA.

Just on that last point, as a point of clarification, is it the curtailment itself that
can increase greenhouse gases or is it the
granting of the delay of timely compliance
condition that can result in an increase in
greenhouse gases?

Because I think that would -- in the
example that was given, I think that’s a
distinction that’s relevant because there may be,
I mean, there may be this need to run the whole
generation for reliability. But whether you
grant or don’t grant the delay of timely
compliance, there may not be an increase in
greenhouse gases because that would have happened
anyways, regardless of the outcome of this.

MS. LARSON: So I think as currently
written we are assuming that the increase in
greenhouse gas emissions would be due to the
curtailment itself. I’m not sure if I see,
offhand, scenarios where like a waiver would ever
increase greenhouse gas emissions. So trying to
understand what practical scenario might exist if
we interpreted the law to mean just the waiver or
the act of allowing delay of timely compliance.

MR. WYNNE: I think the language is if
the delay of timely compliance would not result
in an increase in greenhouse gas emissions, not
the curtailment itself.

MS. LARSON: Okay. That’s something I think we need to think a little bit more --

MS. LEE: Yeah.

MS. LARSON: -- about.

MS. LEE: Yeah. I can see Katharine’s question that the administrative action of granting the delay doesn’t change the circumstance of what has previously occurred. So, yeah, this would -- we’d really welcome some additional conversation because we did not interpret the language in the way that you’re reading it.

MS. DERIVI: Tanya Derivi with SCPPA.

Also to address the issue on unanticipated increase in retail sales due to transportation electrification, in Southern California, this could become a particularly large issue for a heavily urbanized area, especially as we look to electrify major transportation corridors, one example of which being going from the general Los Angeles metropolitan area out to Las Vegas. We’re already seeing some of our inland, smaller publicly owned utilities facing some potential
challenges with the potential installation of fast-charging banks of chargers to get folks from L.A. to Las Vegas, where there are significant spikes around the weekends to get electric vehicles to and from that area.

Transportation electrification, I’ll remind, also includes ports. We have two major ports in Los Angeles. And electrifying boats takes a lot of load.

Also taking a lot of load, potentially, could be mandates by the Air Resources Board to electrify medium- and heavy-duty size vehicles in your fleets. For publicly owned utilities, especially the larger ones, that could potentially require a significant load increase, although we do reiterate that all electric vehicles and all applications don’t necessarily make sense all of the time.

So one of the challenges we see is in trying to project where that’s going. One is customer uptake. We can’t predict that accurately. And so a document, like the Integrated Resource Plan, for those of the 16 large POUs that are mandated to do those per SB 350, long-term planning for transportation
electrification could be extremely difficult when changes and mandates come down through the state. And we don’t want to be punished -- I see nodding of heads -- we don’t want to be punished for that if the potential forecast in a five-year-old document over projected that or under projected that. That’s just a concern we wanted to raise.

MS. LEE: I think that’s a really important part of the conversation we were hoping to have today.

When we included the reference to the IRPs, one of the questions we have is where would you be -- what would you be looking for to validate that you met the criteria of, you know, above your forecast? So we suggested IRPs as a possible but not intended to a restriction, that if you put a forecast in an IRP, that’s the only thing you can refer to.

So I think, you know, we’d be interested in hearing if including suggested potentials is a benefit or if it seems that your concern is that that would appear to restrict you to using those forecasts.

So, you know, we want to provide sufficient guidance so you know what we’ll
evaluate, that there is some sense of a forecast
that you’re speaking to. So any suggestions you
would have on how we can create regulatory
language that provides guidance but doesn’t
impose unnecessary restriction is what we could
use some help with.

Anything else for the conversation today?
We can move on to the next topic and then
look for additional comment in written. Okay.
All right, Katharine.

MS. LARSON: Great. So the next topic
we’ll discuss is the Green Pricing Program retail
sales reduction.

The pre-rulemaking amendments implement
this provision that was created by SB 350 for
POUs with voluntary green pricing or shared
renewable generation programs. The provision
allows POUs to reduce the retail sales that are
used to calculate its RPS procurement
requirements by the amount of qualifying
procurement that’s served to participating
customers. The provision took effect in 2014 and
was available to all POUs in compliance period
two.

When we implemented this proposed
implementation of this exemption in the pre-rulemaking amendments, we did use the word "subtract" in lieu of "exclude," which is used in statute, to better reflect the process that’s actually going on in reducing retail sales pursuant to this exemption. But we saw in initial comments that there may be some concerns there, so we’d like to hear that shortly.

Generally speaking, our goal for the pre-rulemaking amendments is to reflect all statutory requirements by requirement the qualifying procurement that’s used to reduce retail sales to come from RPS-certified facilities and meet the criteria of PCC-1. PCC-0 can be included if it also meets the criteria of PCC-1. We do want to mention that the pre-rulemaking amendments don’t differentiate between POUs -- don’t differentiate treatment for POUs that are not interconnected to a California Balancing Authority. So if there are comments on that, we’d welcome your input here as well.

The pre-rulemaking amendments require the RECs that are associated with qualifying procurement to be retired in a Regis (phonetic) subaccount on behalf of participating customers.
It specifies that these RECs cannot be used for compliance, including compliance with the LTR, or be further sold, monetized, transferred, otherwise monetized. For purposes of this provision the pre-rulemaking amendments do define monetizing as earning revenue from the retired RECs, other than is through the program subscription of tariff, as applicable.

We’ve made a conforming change in the definition of retire in Section 3201 to address the fact that these RECs have to be retired on behalf of participating customers and not used for compliance.

Last, the pre-rulemaking amendments require POUs to seek to procure, to the extent possible, qualifying electricity products from resources located within reasonable proximity to program participants. This reflects the statutory requirements from SB 350 and may be sufficient as proposed. However, we do want to hear your input on what factors come into play for reasonable proximity seeking to procure to the extent possible, especially given the diverse size and geography of POU service territories, and also keeping mind that the RPS is primarily
concerned with utility-scale generation. And we know there were some initial comments submitted but we’d like to hear more in the room in the discussion.

MS. LEE: All right, Greg, could you take the microphone to Tony?

MR. GONZALEZ: Tony Gonzalez with SMUD. And thank you for the language here. And SMUD is supportive of all of the language.

The one exception, as we included in our comments, is the use of subtraction rather than exclusion in the language. We’re very supportive and we agree that the mechanism by which we accomplish this and the calculation is a subtraction. And we don’t have any issues with using subtract to identify how you would go about calculating the retail sales that are used. But we do believe that there is a distinction between exclusion and subtraction and we think that it could cause some confusion and we would like to make sure that the language doesn’t result in that.

As you may be aware, there was an issue, probably about a year-and-a-half ago, regarding SMUD’s participation in the RPS and the Air...
Resources Board Voluntary Renewable Energy Program. And there were questions regarding whether the RECs were being used for that via REC Program and being used for the RPS. Most of our arguments and letters were with CARB as they, ultimately, were looking at the VREP (phonetic) Program. And we’d like to make the argument here that an exclusion means that it’s never a part of -- it cannot be a part of, as opposed to subtract where it could be a part of and is considered part of the RPS.

So when we retire RECs for our voluntary programs, those are retired in Regis under a subaccount that’s categorized as a Voluntary Renewable Program retirement and they are retired on behalf of our customers participating in those programs and only for those customers, the submittal over to the RPS of Regis reports, which we think is appropriate, as a way to verify that the RECs were retired for those customers and, two, so that you can verify that they are qualifying RECs, that are PCC-1 or 0s that look like a 1. But that doesn’t mean that we’re using those RECs in the RPS. That just means that we’re providing that documentation to verify.
And so we want to make sure that there’s no confusion in there between the potential that somebody might take the word “subtract,” if we’re characterizing that as a subtraction as opposed to the mechanism that you use to calculate, that that might mean that they’re being used for the RPS, so that’s our concern. And we are fine with using subtract to describe how you calculate it. But we think that it should be at least characterized as an exclusion, just as it is in the statute.

And then I’ll address the reasonable proximity. We do support a broad definition. SMUD’s progs are quite large. In 2018, we were over one terawatt hour of load, so close to ten percent of SMUD’s overall load. And as our programs have grown over time, it’s important to be able to reach out to a broad spectrum of projects in order to make sure that these programs are viable and cost effective for our customers. We want to make sure that there isn’t any cost shifting between our voluntary customers and the other customers. And so it’s important to be able to go out to a broad range of projects, utility-scale, that we can use to serve
these customers.

MS. LEE: Thanks Tony.

Greg, Mandip in the back.

MS. SAMRA: Hi. This is Mandip from City of Pasadena Water and Power.

Just, we are in the process of revamping our green policy. We’re thinking of maybe redoing it. But one of the issues that we had and one of the concerns is it’s really difficult to have anything within the service territory. We have one resource that’s about 9,000 megawatt hours that’s within the service territory. Everything else in terms of large-scale renewable is actually, you know, Northern California, Southern California, different states. We’re landlocked, so we would aim to try to get things that are local. Local, for us, would really mean probably the state of California because we are landlocked.

But we do just want to highlight that a lot of utilities, maybe like Pasadena where you have no vacant land and no space, even in L.A. County, in particular, there really isn’t a lot of space to build some of these projects, so we
also support what SMUD said for a broad
definition that maybe works with each respective
POU with consideration for some POUs that are
landlocked.

MS. LEE: Tanya?

MS. DERIVI: Tanya Derivi with SCPPA.

To reiterate the points from SMUD and
Pasadena, there are potential projects we are
looking at now of doing something that would be a
community solar-type project in Southern
California that would be joint ownership projects
amongst multiple of our members, a number of whom
are not only landlocked but also fully built out.
Vernon and Cerritos, for example, there’s
literally no space to put these types of projects
in.

One available area amongst the SCPPA
family, though, would be Imperial County which
has a lot of sun-exposed land. And we don’t want
to see a regulatory restriction that prevent --
would prevent a community solar-based project,
not only in prime real estate but also in a
disadvantage area where jobs would be very much
welcomed, to help meet various goals.

MR. CHOW: David Chow again with
Roseville Electric.

Just to add one more voice to this conversation, for example, we have what we like to call community solar. It’s not technically a Green Pricing Program but it’s about a megawatt of solar that we have on the grounds of our plant, the Roseville Energy Park. When we were looking at locations for that site, we only had two sites to choose from. And, you know, if the future, if we choose to expand or have a bigger project, it’s not clear that we’re going to have any space within our city limits to have more community solar, so it might be within the county, it might be within the next county, we’re not exactly sure.

But, again, just want to reiterate the general point of if we could get a bit of flexibility in terms of where we could locate this, we’d like to, you know, keep it as local as possible to encourage jobs and all that. But practically speaking, it’s not something we would be likely to have within our city limits and our service territory.

That’s all.

MS. LEE: Okay. Anyone else like to
speak on this area? All right.

Katharine, let’s move on.

MS. LARSON: Okay. This is our last
topic for the morning, so we may be able to break
at noon as hoped.

Topic five is special exemption for
qualifying procurement of coal-fired generation.
There will be additional discussion of exemptions
later this afternoon but just we wanted to
prioritize this one early in the schedule due to
availability of folks attending the workshop. So
that’s why it’s a little about of -- otherwise
out of place.

So the pre-rulemaking amendments
implement the new procurement requirement created
by SB 350 for compliance period four only for a
POU with qualifying procurement of coal-fired
generation from unavoidable long-term contracts
and ownership agreements. In order to use this
procurement exemption a POU has to satisfy
certain conditions, including demonstrating in
its RPS Procurement Plan that it has an
obligation for the qualifying unavoidable
procurement and that it cannot cancel or divest
that qualifying procurement without significant
economic harm to its ratepayers that cannot be mitigated through feasible measures.

As currently written, we didn’t propose any specific feasible measures. Our initial thought was that maybe the POU’s governing board best knows what measures are feasible in their own specific circumstances. But we did see an initial comment which proposed one measure, and so we’re happy to hear any discussions or thoughts on measures as well.

The pre-rulemaking amendments also specify that a POU qualifying for this exemption can reduce its RPS procurement target, again, for compliance period four only to the greater of its retail sales for the compliance period that are not satisfied by the qualifying procurement of coal-fired generation, or an average of 33 percent of the POU’s retail sales for that compliance period but to no less than an average of 33 percent.

I’m sorry. I think I said that a little wrong.

Basically, the intent here is to address the statutory requirement that the RPS procurement for that compliance period, in
combination with the procurement of electricity of unavoidable coal-fired contracts, does not exceed the POU’s retail sales for that compliance period but, again, can’t be reduced to 33 percent of retail sales.

And with that, I think I saw Tanya pointing to Mandip.

MS. SAMRA: This is Mandip from the City of Pasadena.

We happen to be one of the sign-ons to the Intermountain Power Plant which expires in 2027 but converts to natural gas in 2025, so we really do appreciate this language being put into the rulemaking. We’re not quite sure we’d ever pull the trigger for this. We really are trying our best to meet all the RPS requirements. But this does protect our ratepayers and our rate basis in making sure that we can continue to provide good quality power, consistent power, to our ratepayers. So this is really a good ratepayer protection mechanism, so we really appreciate that.

Thank you.

MS. LEE: Any other parties in the room like to speak to this topic?
Any WebEx participants?

Wow, we’re going to get out early. All right. All right. So let’s plan on reconvening at one o’clock today. There are some references for places you can eat. And we’ll see you back then. Thank you all for your comments today.

(Off the record at 11:47 p.m.)

(On the record at 1:04 p.m.)

MS. LEE: Okay, I think we’re ready to get started. Thank you everyone who was able to come back for the afternoon. We have lost a few participants and so we’ll be looking for those written comments and follow up as needed.

Katharine, do you want to get us started for the afternoon?

MS. LARSON: Yes, unless, Commissioner Douglas, did you want to say anything? Okay.

Great. I’ll just get started then. Okay.

So the afternoon topics we’re going to discuss are procurement requirements, followed by exemptions, the other exemptions we haven’t discussed yet, reporting changes, and then the opportunity to go over additional changes in the regulations that aren’t specifically addressed.

So the first topic we’ll dive into is
procurement targets. And I should say, there’s
two parts to this. First, we’ll go over
procurement targets, then we’ll go over the
portfolio balance requirement changes, but we’ll
focus on this to get started.

The table up here shows the soft targets
that are proposed in the pre-rulemaking
amendments for compliance period four through
six, as well as the soft targets for the proposed	hree-year compliance periods beginning after
January 1st, 2031, on and after. The percentages
and the years that are in bold represent targets
for the final year of the compliance periods that
are set in statute, as amended by SB 100.

Consistent with the established regulatory
structure, the target -- the POU’s procurement
target for the compliance period is the product
of the annual retail sales and the soft target
percentage for that year summed for all years in
the compliance period.

For compliance periods four and six the
pre-rulemaking amendments incorporate soft
targets based on linear progression. For
compliance period five, though, we proposed soft
targets that diverge from linear progression in
order to address legislative intent of achieving a 50 percent RPS by 2026. That percent is highlighted in red, the legislative intent percentage.

However, we set the soft target for 2025 at such a level that the POU’s procurement target for the compliance period, compliance period five, would be the same as if all soft targets were based on linear progression, assuming a POU’s retail sales were the same for each year of the compliance period. We understand that’s not necessarily a realistic assumption but the calculation is roughly the same.

We do also want to be clear here that setting the soft target at 50 percent for 2026 is specifically to harmonize legislative intent. As with all soft targets, POUs aren’t required to procure a specific amount of RPS resources for any given year in the compliance period. And our proposal here would not change that or establish a special requirement for 2026 that needed to be separately achieved or verified for that year.

And so to mention, for compliance periods after 2030 the amendments incorporate three-year compliance periods, consistent with those
required by law for retailer sellers, and
maintain the requirement to achieve a 60 percent
average for the compliance period.

We heard from -- or we saw in initial
pre-rulemaking comments that were submitted that
you may have some thoughts on our treatment of
soft target for 2026 and so we’d like to turn
that back to you.

MS. LEE: Okay. Thank you, Justin.

MR. WYNNE: Thank you. Justin Wynne for
CMUA.

And first, I don’t think that this is a
major issue. And I think that the relative
difference would be pretty small. But I do think
that, based on the participation we had during
the legislative process, and if you look at the
CPUC’s implementation, I think it’s pretty clear
that the intent was to follow the same straight
line averaging methodology.

We referenced in the comments we filed
that the legislature was very aware, and I think
they’ve amended twice since the original straight
line averaging methodology was implemented,
they’ve amended that section twice and both times
they’ve made no changes to that core language.

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And I think if you look at the CPUC decision, there’s a reference to the 50 percent target in 399 being sort of a leftover from earlier versions of the bill. And I also think it was sort of a politically-useful target to clarify what happened to the 50 percent but not meant to actually change what the formula would be.

And so I think that we agree that it is important for there to be distinctions between the CPUC’s implementation and your implementation. But I don’t think that this is one of those areas where there’s any real rationale for deviating from what the CPUC has done.

MS. LEE: All right. Do we have anyone else who’d like to comment?

For those just joining us, we’re talking about compliance periods and procurement targets as proposed in the current amendments.

Tony?

MR. GONZALEZ: Tony Gonzalez with SMUD.

And I’m sure I’m just reiterating what Justin -- or what folks have said here.

And just for consistency purposes, going
with the straight line is kind of -- was kind of our preference. I understand it’s probably a minor difference but I think consistency throughout, the fact that the 50 percent language is an intent section of the statute, I think that leaves the CEC some room to interpret this and maintain the same linear targets throughout all of the compliance periods.

MS. LEE: Thank you, Tony.

I know we still have some folks coming back in from lunch. So, again, we’re talking through procurement targets and compliance periods as proposed, if you have any specific comments? What we’ve heard so is some preference to a linear approach and not moving away from that in 2016 by calling out a 50 percent target for that individual year.

Do we have anyone else in the room that would like to comment?

And anyone on the WebEx, Ryan? Okay. And no indication on the WebEx.

So I think we’re ready to move on. As people join, we can revisit this if folks are just having -- coming back late from lunch.

MS. LARSON: Great. So the next topic
we’ll discuss is the portfolio balance requirement changes and clarifications.

So the main one here is that the pre-rulemaking amendments incorporate or implement the statutory requirement of a PCC-1 minimum of 75 percent and a PCC-3 maximum limit of 10 percent for compliance period four and beyond.

Separate from the statutory change the pre-rulemaking amendments implement proposed clarifications to better identify the PCC-3 maximum component of the PBR as a limit. So based on this clarification the PCC-3 maximum limit is evaluated prior to the PCC-1 minimum and the LTR so that the PCC-1 minimum and the LTR are calculate after any PCC-3 RECs in excess of the maximum limit are disallowed. So, essentially, if you have any disallowed PCC-3 RECs that are in excess of the maximum, your LTR and your PCC-1 minimum will be calculated after their excluded.

The pre-rulemaking amendments also clarify the equations in the PBR equations to provide better guidance on different procurement application scenarios, such as if a POU applies procurement toward the target at a greater level than what’s required for compliance and, say,
they choose to apply all the procurement toward their target in lieu of banking any eligible excess procedure. In this case the PCC-1 minimum and the PCC-3 maximum would be calculated based on the procurement target, the amount that’s needed for compliance, not the total that was actually applied.

And we are happy to answer any questions or take any comments on these proposed changes.

MS. LEE: Justin?

MR. WYNNE: Justin Wynne for CMUA.

So just to confirm, though the changes to the calculations for PCC maximum and PCC-1 minimum are consistent with how you’ve already been applying, I think there was a formula coded into the existing, going back to compliance period one even, the formula that was coded into the spreadsheet at that time is the same calculation that you were describing now, just described in this draft? There’s no change to what you’re proposing here from what has been applied in the prior compliance periods, it’s just now you’re expressly putting it into the regulations; is that correct?

MS. LARSON: So -- oh, that’s loud. In
part. The clarification of how procurement that
is in excess of the amount needed for compliance,
how the rules are applied, that is consistent
with implementation to date. The clarification
of the PCC-3 maximum as a limit does differ from
implementation and compliance periods one and two
in showing that that procurement is subtracted
out before PCC-1 is calculated.

MR. WYNNE: And this might be too
difficult to do. I think maybe an example would
be helpful and so this is maybe something we can
include in comments. But there does seem to be,
unless I’m misunderstanding this, an
inconsistency in the calculation in that when you
are calculating the allowable percentage, you are
taking into consideration the full amount of PCC-
3. So if you -- if there was a 1,000 megawatt
hour RPS obligation and, say, a POU had procured
500 megawatt hours of bucket one and 100 megawatt
hours of bucket three, that would exceed the
allowable limit?

I don’t know if -- maybe this isn’t good
for a workshop structure. But I think that an
example -- it seems like you were taking -- it
gets a little complicated because you’re
calculating the whole amount of bucket three RECs and figuring out what the percentage is but then you’re going to disallow the bucket three RECs. And so it seems like you’re using something that you’re going to be disallowing in the next step to figure out what that percentage is, if that makes sense. And there’s -- we were going through some examples with the larger POU group and there was just some questions about that there seems to be some inconsistencies there.

I think our preference from the beginning would be you’d have the limit, you’d have ten percent of that is what you can get for a PCC-3, and then it’s relatively straightforward. But by introducing this calculation first, it adds some complexities here. And it also, I think, deviates from what a lot of the expectations were. I know that that’s how it’s been applied and I think we’ve disallowed PCC RECs -- three RECs because of that. But the way that the formula is structured seems a little unusual.

MS. LEE: I think, actually, the scenario that you’re describing is what we’re trying to resolve, is that -- and Gabe, Mona, please weigh in on this -- because we recognize the same
inconsistency, that if we were calculating your
requirements based on procurement that we were
then going to disallow the use of. So that is
one of the -- that is the clarification we were
seeking to resolve with this update that was
previously unclear. So you could show -- have
your PCC-1 minimum calculated on your overall
procured and applied. Then we would subsequently
reduce -- or disallow your bucket three. It is
hard to say without actually walking through it.

MR. WYNNE: So --

MS. LEE: But I think what you’re saying
is exactly what we were trying to resolve so that
you weren’t being required to procure PCC-1 based
on procurement that we were then going to
disallow if you were over your bucket three. So
we’re trying to create a scenario where we apply
the bucket three limit first and foremost, then
we subsequently will do the PCC -- the portfolio
balance one calculation.

MR. WYNNE: So an example where -- so say
there’s a 1,000 megawatt hour obligation, a POU
has done 500 megawatt hours of PCC-1, 100
megawatt hours of PCC-3, they would -- ten
percent -- so if you have -- that’s 600 total,
you would apply 10 percent to that, and so the
max PCC-3 would be 60 megawatt hours. And so you
would take 40 and you would remove that and
that’s before you would evaluate their compliance
with the PCC-1 requirement?
MS. LARSON: Right. So it would
effectively lower the PCC-1 requirement.
MR. WYNNE: I think the confusing part is
that the 100, the full 100, is used to calculate
the 60 percent. So you’re using -- you were
using disallowed RECs to calculate the allowable
RECs and that’s where it gets confusing I think.
MS. LARSON: So I think that’s where
we’re trying to clarify that, to us, PCC-3 is a
limit. It’s not a requirement that needs to be
satisfied in the same way that like PCC-1 minimum
of LTR needs to be satisfied. It’s a limiting
condition on what you can actually count for
compliance and for the LTR, so --
MR. WYNNE: So in this example, so say
instead of the 500 PCC-1, if they went and did
500 PCC-3, they’ve now increased their limit of
PCC-3. So, I mean, it seems like you could over
procure disallowed PCC-3 and increase what
counts, and maybe I’m incorrect. And that’s why
MS. LEE: No, I’m glad you’re raising it because that is exactly what we’re trying to resolve. So if we’ve written it in a manner where that is either not clear or that we have had inadvertently continued that construct, what we’re trying to resolve is in the scenario, especially where you’re under target but you have excess, it becomes a circular calculation unless you, first and foremost, look at the lesser of target or what’s applied, what the POU has chosen to apply, and calculate the bucket three, eliminate those, then calculate the bucket one. That’s the linear progression we’re trying to create.

But, Gabe, Mona, is there anything on that you’d like to speak to?

MR. HERRERA: No. Just, Justin, if you have some suggestions on how to approve the equation, please provide them in your comments. The thing about it is it does get very complicated and it seems like you get into this kind of do loop where you have to do some recalculation based upon the adjustments that are made and -- yeah.
MS. LEE: And it does vary if you’re over procured to target, if you’re meeting target, where you’re at in that bucket three, if you’re over your limit. Yeah. And the most complicated case being you’re below target but you have arguably exceeded a bucket -- that initial bucket three calculation. So trying to create one calculation that addresses all of these scenarios sufficiently has been a challenge. So, yeah, I agree, Gabe, any help that you can provide us.

So I think that that is another area that, you know, we would welcome your input on is embedding the calculations in the regulation can be a benefit if we do it effectively. So we have a lot of calculations that seek to clarify our -- the narrative description of the regulation. And where those are beneficial, it’s valuable for us to understand. But where they complicate things or maybe can even counter what the narrative is describing, we would be interested in understanding how to effectively construct the regulation to provide equations where they are beneficial.

Is there any other comments specific to the portfolio balance requirement clarifications?
Okay, let’s move on.

MS. LARSON: All right. Now our next -- we’ll get into our next set up topics which is exemptions. And these allow POUs an alternative or reduced procurement target calculation based on specific requirements and conditions.

Ooh, that’s a lot of text on this slide.

The first one we’ll talk about today is a new exemption from SB 350 that applies to POUs with qualifying procurement of large hydroelectric generation. The exemption -- the requirements for this exemption were subsequently amended by SB 100. So the pre-rulemaking amendments incorporate the initial requirements under SB in a separate subsection from the amended requirements under SB 100. Consistent with the statutory changes under -- the statutory language, excuse me, the pre-rulemaking amendments clarify that the amended exemption from SB 100 only applies to compliance period six and isn’t available after 2030.

The very bottom part of this slide highlights a few key differences in the statutory requirements for the exemption that’s in effect for the years between -- excuse me, 2017 and 2018.
is the set of criteria on the right. And then 2019 and 2030 are the requirements -- this is backwards. 2017 and 2018 are the requirements on the left and 2019 through 2030 are the requirements on the right. My apologies for the typo in the years there. These requirements are incorporated in the pre-rulemaking amendments in separate subsections, as I said.

One of the topic areas in particular that we’d like input on is whether one or both of the provisions that require qualifying generation to provide electricity to a POU or for a POU to receive qualifying generation, if either of those require the POU to actually apply the generation to its retail sales in order to avail itself of this exemption.

Another topic area we’re like your thoughts on is the dates of availability for these exemptions. As I said, we understand the statute as it currently exists to limit the applicability of the exemptions to within compliance period six and not have it available afterward.

And last, we wanted to draw attention to the proposed treatment of renewals and extensions
in the pre-rulemaking amendments since we know
that was an area of concern before and see if the
proposed treatment is sufficient or if there are
additional areas that we need to address.

MR. WYNNE: Justin Wynne. Here, I’m on
behalf of the Merced Irrigation District.

Just to clarify on this first question
about the providing electricity to a POU, we
spent quite a bit of time on this issue back in,
I think this was 2014 and 2015, if that’s
correct, Gabe? And I don’t believe the relevant
language for that has changed. And so I’m not
sure why there would be a question about
revisiting it within the context of what would
apply in the prior, this 2016 to 2018 period.

MS. LARSON: So I think -- sorry. There
are two -- we have two different slides, one for
the exemption that has historically applied to
Merced, that’s the one I’m going to talk about
next, and these are just the SB --

MR. WYNNE: Okay.

MS. LARSON: -- 350 and SB 100 changes.

MR. WYNNE: That’s helpful. Thank you.

MS. LARSON: So in the -- yes. I could
have made that a little clearer. My apologies.
MR. WYNNE: Okay.

MS. LARSON: In this first SB 350 language there is a provision that requires qualifying generation to provide electricity to a POU. That was amended in SB 100 and the language switched back to qualifying generation needs to be received by a POU, which is what was the language used for the exemptions that we understand to apply to Merced in the past.

MS. BERLIN: So this is Susie Berlin.

On this issue, we believe that the not available after compliance period six is a product of some poor drafting. And when you look at the totality of the legislation, it’s clear that this provision was intended to be invoked at the time when the RPS went up. It does reference section -- subsection (b) which has specifically delineated compliance periods. But in subsection (c) it says that the publicly owned utilities are responsible for doing certain things, including ensuring that the CEC adopts compliance periods for after the specifically delineated compliance periods.

So I think when you -- when they’re taking it whole, that the reference to subsection
(b) was just to what was already the delineated compliance periods and it applies beginning with that, with the 60 percent, and then it goes onward.

And we, obviously, will be providing written comments and provide more information. But the purpose of this section was to deal with these federal contracts, these long-term hydro contracts, so it just doesn’t make sense to read it as saying you’re -- we’re accommodating, recognizing these long-term contracts and, by the way, only for a few years and these contracts that go out 30-plus years cannot be recognized after that.

MR. TOMASHEFSKY: Just to add a couple things.

When you look at, under the --

MS. LEE: And this is Scott --

MR. TOMASHEFSKY: Thank you.

MS. LEE: -- Tomashefsky.

MR. TOMASHEFSKY: Thank you, Natalie.

When we start looking at being consistent with and whether it’s identical or not with PUC rules, if you look at 39915 there’s a reference point to the compliance periods that are in there
that go out to 2030. And then, of course, there’s additional language that talks about the establishment of additional compliance periods above and beyond that.

So where that reference point is -- shows up in 39930(b) and (c) creates inconsistencies in terms of what the intent is. And so if you’re looking at it from that standpoint there would be an expectation that that type of provision would go forward.

The other component of it is just from a practical matter. As we’ve talked about this exemption or accommodation over the years, the tie-in to the federal resource projects was important, which we actually recognized at the end of the AB 1110 discussion when we’re talking about how to normalize hydro and other non-California-eligible renewable on the label and we wanted to make sure that the retail sales component was kept intact with that. So it was the intent that you could not lay off this resource. And by virtue of that, as we got to 60 percent and beyond, it became much more of a challenge for a lot of public entities.

And so that fits in really well with what
happens in 2030 and beyond. And it also fits well with respect to the 2045 decarbonization goals.

So there’s a lot of factors surrounding why this is important. But the tie-in to long-term and contractual agreement with the federal government to take something that’s provided to public entities was really paramount to having this thing put in here in the first place. And so we just want to make sure that the technicalities or maybe the non-tight nature of the statutory language doesn’t become the problem associated with trying to implement this in the way it was intended to be.

MS. LEE: Thank you. That’s really helpful.

Are there any other comments in the room?

MR. HERRERA: So, Natalie, can I follow up with Scott real quick?

Scott, do you think -- I mean, there were a number of changes made to provisions that apply to exemptions for large hydro that there may be a need in the near future to get some clarifying language, some legislative fixes to address those ambiguities that might appear in the statute.
And, if so, is that an opportunity for POUs to seek some clarification of this issue, if you think it was really such a drafting error?

MR. TOMASHEFSKY: Yeah. I think the simplest drafting fix, if you will, is really tied to the Commission having the authority to establish multi-year compliance periods beyond 2030 so that you don’t have to keep going back to the statutory language and fixing it. If you decide, well, we’re going to now extend it to 2040, now we’re going to add three more compliance periods. Now we go back in 2040 and we say we’re going to add more compliance periods.

So what I would think would be the most useful thing is really designing the language in a way that allows you to sort of take care of that administratively, is to go back to make a statutory change, because it really does become not the most useful, not the greatest use of everyone’s time because it’s not really a discussion on public policy, it’s a discussion on how you’re administering the program. So just a technical oversight, I think, really, that this particular provision gets caught in the middle.
MS. LEE: No more hands raised in the room.

Anything on WebEx?

All right, then we’re ready to move on to the next one.

MS. LARSON: Great. So this is the other large hydro exemption that -- for which there have been some changes in law, in this case by SB 1393, and then subsequently by SB 100.

So this exemption was originally enacted by SB 591 with such narrow eligibility criteria that we really understand it to apply only to one POU, Merced. It was amended in SB 1393, the calculations and eligible criteria, and then in 2018 these criteria and calculations were removed and replaced by SB 100, concurrent with this large hydro exemption that we just talked about with different requirements.

So the pre-rulemaking amendments incorporate the SB 1393 changes to the exemption which applied for the years in which SB 1393 was in effect through the SB 100 effective date.

These changes include changing the procurement requirement reduction from a compliance period
basis to an annual basis and changing the eligibility criteria to no longer exclude qualifying generation that could meet the definition of an eligible renewable energy resource.

For the requirements that were in place in compliance period two, so prior to the 1393 amendments, we did make a few clarifications in the regulations to replace the statutory references to Public Utilities Code 39930(k) because it was subsequently amended a couple of times. So we, instead, incorporated the language that was actually contained in that provision before it was amended. Otherwise, our intent for those years is that the requirements did not change. The changes for those years were to address the fact that 39930(k) had been amended multiple times.

And that’s all we have to tee it up.

MS. LEE: Okay. Any comments on the application for this exemption? I kind of expected limited comment on this. Okay.

All right, Katharine, go ahead and move on.

MS. LARSON: So on the topic of
exemptions with fairly limited applicability, we
have a new procurement target reduction for a POU
with qualifying procurement from gas-fired power
plants that was established by SB 1110. So we
understand this provision to only apply to two
POUs that address the statutory requirement to
notify the CEC by last April of their intent to
ask and use this provision in the future.

The pre-rulemaking amendments incorporate
the eligibility criteria for this exemption and
for gas-fired power plants based on the statutory
requirements. This includes the requirement that
a qualifying power plant must be operating at or
below a 20 percent capacity factor each year of
the applicable compliance period for which the
POU avails itself of the exemption.

The pre-rulemaking amendments also
propose requiring that a given a POU must procure
RPS resources equal to 45 percent of retail sales
by the end of 2027, 50 percent by 2030, and 50
percent for each compliance period thereafter,
and incorporate corresponding soft targets. This
is based on the statutory requirement that a POU
must procure eligible renewable resources as
required by Public Utilities Code section 39930
as it existed on January 1st, 2018. However, in developing this implementation, we understand that there could be alternative -- reasonable alternatives to what Staff has proposed. And so we’d really like to get your input on what, if any, those might be and why they may be the best implementation, or if you agree with us as well.

Last, the pre-rulemaking amendments specified that this procurement target exemption takes effect beginning in compliance period five. That’s the first compliance period that has an RPS target that’s greater than 50 percent. And, again, this is based on the statutory requirement that the provision takes effect if the procurement requirements of the RPS article require more than 50 percent of retail sales to come from RPS resources. Again, though, we understand there could be reasonable alternatives, other than we’ve proposed, so we’d like to get feedback on that as well. And we understand that this provision does only apply to a limited number of POUs but we do welcome comments from anyone who has them.

MR. CHOW: So David Chow with Roseville Electric and speaking for half of the qualifying
POUs that this applies to.

Again, just to give a little context, we have the Roseville Energy Park which was built in response to the energy crisis and to provide local reliability and support our, you know, keeping the lights on. So the bonds will not be paid off until 2037, so this is something that we hope to never use but it’s a good sort of, I guess, insurance policy to protect our ratepayers and the money that they’ve invested in that.

No requests, per se, except for a clarification. My understanding is that this was sort of passed when SB 350 was, you know, the law of the land and the goal was 50 percent by 2030. So we just want to clarify, with SB 100 pushing that 50 percent goal a couple of years earlier to, I believe, 2026 whether the trigger point would be that year, 2026, or whether it would remain at 2030? Just a minor clarification.

Thank you.

MS. LARSON: That’s a good one to think about. We had -- in my mind, 2026 was the rule -- the reason that made sense, but we’ll certainly look into other possibilities. And if you have suggestions for why one might be
preferable or make more sense, we’d certainly appreciate that in your comments.

MS. LEE: Any comments on WebEx on this topic? Okay.

All right, Katharine, you ready to move on?

MS. LARSON: Okay. The next couple slides we’re going to discuss have to do with reporting. First, we’ll talk about compliance reporting, and then some changes to annual reporting.

So the pre-rulemaking amendments propose a two-step compliance reporting process in which there’s modified information submitted in the annual report for the last year of a given compliance period which would later be followed by a compliance report that’s submitted after the CEC has completed initial verification results for REC eligibility, PCC classification, and longer short-term duration of the RECs.

The intent here is to provide POUs better information on the eligible RECs that they have available to apply for the procurement requirements of a compliance period. This is relevant, in our mind, because the PBR and LTR
depend on the actual RECs that are applied to the
target and in what classification they are in.

So in the compliance period that’s --
compliance period report that’s submitted based
on the actual -- the verification results from
the CEC, the initial verification results, the
POU would need to identify the amounts of RECs in
each portfolio content category classification
and the long- or short-term classification that
it intends to apply to the RPS procurement target
for a given compliance period. Similarly, the
POU would be identifying any new excess
procurement that it is accruing in the compliance
period, again, based on those initial
verification results from the CEC.

So in initial comments we received there
was a request to increase the time frame for that
second step of the process, the compliance
report, to 60 business days from the proposed 60
calendar days, and also a process by which a POU
could request an extension for this report
process.

We understand the reasons that were
cited, for why the 60 calendar days may be
insufficient, although conceptually we think it
might be easier to follow calendar days than business days. And so one, you know, question we had in looking at those comments is if we had said 90 calendar days, would that achieve the same result as the request for 60 business days in the initial comments?

In addition, we do think that the report extension process in the guidebook might -- would probably be sufficient to allow for an extension of this as a reporting requirement but -- and we would prefer to not be duplicative in general -- but we are open to considering this if it is, in fact, necessary to separately address, so --

MS. DERIVI: Tanya Derivi, SCPPA.

On behalf of a number of our members, some of whom are very, very large utilities, I think we’d be very supportive of 90 days instead of 60 days, if you do go with a calendar date, and if it is allowable, to allow some sort of trigger mechanism to ask for additional time. The concern becomes at the end of the year, when there’s a lot of holidays and a lot of staff who might be out that would otherwise be working on this one, there may be staff constraints, both for our largest utilities in the state, but also...
for our very small utilities where one person may be doing this at the end of the year and wears multiple hats and may not, simply, have enough time to get it done when there’s only one person at a small utility working on it. So any additional flexibility, we’d greatly appreciate.

MR. WYNNE: Justin Wynne for CMUA.

Just to clarify what you were mentioning from the eligible guidebook, are you saying that that, on its own, would allow a request for an extension of this report or you would need to take parallel language from the guidebook and put something into regulations? I didn’t --

MS. LEE: We are -- we’d like to explore if the provision in the guidebook allow for the submittal of a request to extend already so that we don’t need to duplicate because we’d prefer not to duplicate in both sets of rules. If you feel like the guidebook provisions are insufficient, you know, then how we could develop, such as Tanya said, maybe a trigger or something of that nature, again, to avoid being duplicative but to allow for this.

(Off mike colloquy.)

MS. LEE: No. The guidebook provisions
on requesting and extension of time.

MR. WYNNE: And I haven’t reviewed those.

Is that -- the Executive Director would -- you
could request the Executive Director to grant you
the extension if you showed good cause?

MS. LEE: Yeah, I think so. That’s what
we were hoping provides sufficient.

Gabe, please?

MR. HERRERA: There was a proposed
amendment to the reporting deadlines that allow
for parties to seek an extension if the reports
they submit are incomplete or if they don’t
submit a report within the deadline, so proposed
amendments would allow them to seek an extension.

It just seems like that might be available to
POUs as well. And I’m talking about language
that’s right in 3207(h) -- or, excuse me, (p), P,
as in Paul.

MS. LEE: So I think, generally,
speaking, we’re certainly open to providing that
process, we just want to do it the most efficient
and appropriate place.

So any other comments regarding the
proposed change to compliance reporting, or
questions, clarifications, anything?
Oh, okay. Sorry. You weren’t quite yielding the microphone, so --

MR. WYNNE: So the POU reporting is the next slide, correct, on --

MS. LARSON: Annual reporting.

MR. WYNNE: Yes --

MS. LEE: Annual reporting.

MR. WYNNE: -- for the --

MS. LARSON: So as for annual reporting, we have proposed a number of minor clarifications to the existing reporting process, primarily to align with the actual implementation, as well as to reflect the removal of the Public Goods Fund reporting requirement in accordance with SB 1393. One topic in annual reporting that got initial comments was a proposed clarification to the reporting requirement for POU energy consumption. So because POUUs exclude or they may exclude energy consumption from the retail sales for purposes of calculating RPS procurement requirements the intent behind this change is to help Energy Commission staff better verify that the excluded generation is associated with POU consumption, as well as to be able to compare retail sales for consistency with other programs.
Some POUs, we recognize, do provide more information on what’s included in the consumption by a POU. But the intent here is to provide more consistency in that reporting to help us, again, better verify.

We’ve also added additional language in the annual reporting that applies to annual reporting, as well as other reporting, that clarifies the CEC may request additional information from a POU to demonstrate compliance with an RPS procurement requirement or any RPS-related requirement, so we wanted to call that out as well here.

MS. LEE: So I can see the look of question or for clarification. So the request for additional information, in large part, is to help us as we try to validate the amount submitted for retail sales, and sometimes those differ from the retail sales numbers reported under other reporting programs. So by having that kind of broader view into how the POU is assessing what they’re putting to retail sales or, arguably, municipal load or pumping loads, things of that nature, that just will help us to validate that the retail sales that they’ve
reported under the RPS is consistent with retail sales as reported in other venues.

MR. WYNNE: This is Justin Wynne for CMUA.

And just so I understand, would it be things like including categories? So you would have street lighting and then the number of megawatt hours, you’d have city hall load, you’d have water pumping for the sewage treatment plant, so you would break it out by those types of categories?

MS. LEE: Generally speaking, yes. I think we did not prescribe categories. We’re looking for the POU to describe to us. And then if we have additional questions of clarifications needed we would seek them. We really expect this to be just additional clarification so as the POU chose to distinguish that, if they wanted to roll things up into municipal load and things appeared consistent with other reporting structures, there’s no need to additionally clarify. If there were some kind of a broader difference in those numbers, then we might follow up with another request to better distinguish what’s included in those values.
MR. WYNNE: And I think maybe it wouldn’t be necessary in regulations but it might be something that there could be some additional instructions that you would put out around reporting time just to make sure that we’re aligning with what you’re looking for, but we wouldn’t need to put it in the actual regulations, just so we make sure we’re meeting your --

MS. LEE: That seems very reasonable.

MR. WYNNE: -- expectations.

MS. LEE: Yeah.

MR. TOMASHEFSKY: Scott Tomashefsky here.

In the interest of sort of our ongoing efforts for streamlining and just efficiency reporting, to the extent that there’s -- I mean, when you look at the Power Source Disclosure Report that’s provided and you have the distinction between your retail sales number and what’s self-consumed, and granted, there’s just one column right now but that can change, as well, we start to run down that slope of multiple reports for, basically, the same type of information, so what I was hoping we would not start going back down that path of duplicative
So I’d like to at least address this thing a little bit more before you build it into the regulations, just as far as how we can address the needs that you have. Because I know in terms of the Power Source Disclosure Report itself, it’s a compliance report but it doesn’t necessarily call for you to describe what’s in your self-consumption load. It’s just sort of assumed that this is what is going to be consistent with the regulations.

So the extent that we can kind of deal with that, if there’s an area where we don’t have to do it twice, that would be ideal. As you said, it’s not a major piece of information but it sort of goes down that same path of we don’t want to start getting into the habit of just reporting in multiple trenches, even within an agency.

So I’m not quite convinced this kind of deals with it. We really haven’t talked much about that.

MS. LEE: Yeah.

MR. TOMASHEFSKY: But I think it warrants a conversation or two before you build it into...
something we’re going to provide.

MS. LEE: Absolutely. I think, you know, our attempt here was because we do see disparities in retail sales reporting when we compare it to power source or other reporting venues as well. We see disparities among, you know, many of the POUs. So then we have to kind of go back and try to validate with the POU how the -- the RPS-specific number. So our intent was to try to alleviate that need for additional follow up by getting enough information up front. But we’re always interested in streamlining reporting and reducing reporting burden, so absolutely agree.

Did we have some other parties that would like to -- we can give you a minute to talk.

David, did you have something you’d like to --

MR. CHOW: Yes. Can I answer your question with a question? So when you --

MS. LEE: That’s what this is about.

MR. CHOW: -- when you were comparing the RPS annual compliance reporting to other reports, were you referring to the power content label?

MS. LEE: So power source is one --
MR. CHOW: Okay. Sure.

MS. LEE: -- is one source. But there are other reporting programs in which retail sales or demand numbers are provided that we do look to validate.

MR. CHOW: Okay. Well, just speaking narrowly for Roseville Electric and the power content label slash power source disclosure and the RPS report, what we used to do is we would take the self-generation exemption and apply that to our RPS numbers, but we would not do that for the power source disclosure because, you know, it wasn’t clear in the regulations that we were treating those numbers the same way. However, with the passage of AB 1110, I think that’s explicitly called out.

So, you know, again, just speaking for Roseville Electric, I think those numbers should be consistent going forward. But that being said, we’re happy to provide the numbers that you’re looking for. We have it broken down by kilowatt hour and individual buildings. So if we can provide it like that or we can aggregate them to different uses like, you know, water pumping or powering or heating buildings, just wanted to
provide some context, at least from our
perspective, on that.

MS. LEE: Great. No, I appreciate that, and I think the staff. And, you know, we would welcome the conversation of showing some of the POU where we have seen --

MR. CHOW: Um-hmm.

MS. LEE: -- differences. And, you know, some of our questions are how folks are defining municipal load and things of that nature?

MR. CHOW: Sure.

MS. LEE: So --

MR. CHOW: And to that point, if there's other reports that you're aware of that maybe seem to be inconsistent, at least as applies to Roseville Electric, we'd be happy to work with you and your staff on that in clarifying any discrepancies.

MS. LEE: Okay. Any other comments in the room? Well, good.

All right, we can keep moving forward.

Making great time.

MS. LARSON: That we are. Okay. This is the last topic slide I have for the day, and it is on additional changes. This is, once again,
not a comprehensive overview of every change in
the pre-rulemaking amendments but it provides or
attempts to provide an overview of most of the
other minor clarifying other changes that aren’t
related to topics that we’ve already addressed.

So in Section 3201, we added definitions
for contract and ownership execution date which
are used to determine whether an agreement is
executed prior to June 1st, 2010. We also
updated the statutory reference in the definition
of compliance periods.

In Section 3202, we clarified how
additional procurement that is due to an
amendment of a PCC-0 contract is classified.
This is just a clarification but it was based on
a comment that we received, actually, in the last
draft amendments.

In Section 3204, we updated requirements
for a POU that has a regulatory exemption from
the portfolio balance requirement that’s based on
satisfying the criteria of PUC, Public Utilities
Code, section 39918. This update was made in
parallel with STATE BOARD 350’s amendments to the
criteria of Public Utilities Code section 39918.

In Section 3205, we removed specific
notification requirements for procurement plans and enforcement programs that are pursuant to changes from SB 1393.

And in Section 1240, we proposed requiring a copy of the NOV to be sent, if applicable, to be sent to a POU, in addition to the Air Resources Board, as well as updating statutory references to reflect remembering of statutory provisions. There’s also a lot of renumbering throughout the pre-rulemaking amendments, as I’m sure you’ve noticed.

So we encourage you, again, to take the opportunity to provide input on these changes, or if there are any other changes in the pre-rulemaking amendments that we haven’t already discussed that you want to bring up, this is a good opportunity to do so.

MS. LEE: Okay. Anyone in the room have any other topics they’d like the opportunity to discuss?

COMMISSIONER DOUGLAS: Thank you.

MS. LEE: We could narrow that a little for you.

Any hands raised on WebEx?

Okay, you guys are all tired after lunch,
aren’t you? Okay.

Let me check in here and see if there’s any comments from Commissioner’s office staff? Got a couple? Okay. All right.

MS. LARSON: Okay. So now we’re on to next steps.

As mentioned earlier, comments on the pre-rulemaking draft amendments are due by five o’clock on January 17th. You can use our e-filing system to submit, and there are instructions in the workshop notice.

In addition to the policy areas that we’ve discussed here, we also encourage, as was said, specific feedback on the pre-rulemaking amendment language. If you have changes that you recommend based on some of our policy discussions, or even if you, say, catch a typo that you think we should address, we really appreciate that specific feedback in your written comments.

We’ve included a copy of our current schedule here which we are planning for the formal rulemaking. And it’s really to give everyone an idea of what comes next and how quickly.
So based on our discussion today and the comments that we receive, we’ll start drafting the 45-day language and the rest of the initial rulemaking package. We will be available for meetings and conference calls between now and the sort of formal, but you can see that time is going to go by pretty quickly since we, again, anticipate initiating it in April with the publication of the Notice of Proposed Action.

We intend to have the regulations adopted by the Commission in the third quarter and to submit the final package to OAL in the fourth quarter with the request for an immediate effective date. So it is very much our intention that the regulations will be adopted and effective prior to the end of the compliance period.

We plan to give a public comment period in case there’s anything else to discuss. We may or may not have a need for -- well, we noticed it, so we’ll give the opportunity for public comment, but we have discussed a lot to date, so --

Ms. Lee: Are there any members of the public or any participants that have additional
points to raise? We have one.

Greg, do have the microphone? Thank you.

MS. BERLIN: I’m usually louder.

On the previous slide, when you say public hearing, do you mean the meeting?

MS. LEE: This is Tanya -- I’m sorry.

MS. BERLIN: No. Sorry.

MS. LEE: This is Susie Berlin.

MS. BERLIN: Sorry.

MS. LEE: I’m looking at Tanya, so --

MS. BERLIN: With regard to public hearing, is that the -- that’s separate from the hearing at the meeting where it would be adopted? That would -- are you anticipating like a workshop hearing on the 45-day language?

MS. LARSON: So we’re anticipating that we’ll have a 45-day language workshop. While not technically required, unless someone asks, we anticipate that we’ll hold one.

MS. BERLIN: Thank you.

MS. LEE: We do anticipate -- well, we are required, of course, to have a public hearing for the adoption in quarter three as well.

Okay, I’m not seeing any indication that there’s additional public comment.
Is there anything on the WebEx?

Okay, so we’ll move past this slide.

MS. LARSON: And that is actually all that I have. My contact information is here, of course, and I think most of you have it but you’re welcome to contact me with any questions.

And I’ll turn it back to Commissioner Douglas.

COMMISSIONER DOUGLAS: All right. Well, I just wanted to say I appreciate everyone’s participation in the workshop. I know some folks had to leave early but I know that everyone who was here will -- and on WebEx and generally aware of the proceedings, will submit comments. And we’ve got our comment deadline.

My philosophy on these things, especially with a timeline such as the one we have, is that we are going to do our best to put the cleanest, most comprehensive, most perfect set of 45-day proposed regulations forward. We will utilize your comments to the maximum extent we can, everybody’s comments to the maximum extent we can in doing so. And, of course, you’ll comment on that. And there may be things that aren’t perfect and we’ll fix what absolutely needs to be
fixed, but your most brilliant ideas should come
to us now, please, not later.

So I really appreciate everyone being
here. I really appreciate the fact that you came
prepared to speak to the proposals that we put
forward and look forward to further engagement
through this process, so thank you.

MS. LEE: All right. For folks on WebEx,
we’re going to be closing down the WebEx.

Thank you all for your participation.

(The workshop adjourned at 2:00 p.m.)
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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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