

DOCKETED

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BEFORE THE
CALIFORNIA ENERGY COMMISSION

In the Matter of:) Docket No. 16-RPS-03
Amendments to Regulations) STAFF WORKSHOP
Specifying Enforcement Procedures) RE: Enforcement
for the Renewables Portfolio) Procedures for the
Standard for Local Publicly Owned) Renewables Portfolio
Electric Utilities) Standard for Publicly
Owned Electric
Utilities) Utilities

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
FIRST FLOOR, ARTHUR ROSENFELD HEARING ROOM
SACRAMENTO, CALIFORNIA

THURSDAY, AUGUST 18, 2016

1:30 P.M.

Reported by:
Rebecca Hudson

A P P E A R A N C E S

CALIFORNIA ENERGY COMMISSION

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P R O C E E D I N G S

1:30 p.m.

SACRAMENTO, CALIFORNIA, THURSDAY, AUGUST 18, 2016

MS. CHISHOLM: Hello, everyone. Good afternoon and welcome to our workshop. I'm Emily Chisholm and I'm in the Renewable Energy Division here at the California Energy Commission and I am the Compliance Lead for the Renewables Portfolio Standard, or RPS.

I'm joined here by Bill Blackburn, Office Manager for the Renewable Energy Division; Gabe Herrera, Staff Counsel with our Chief Counsel's Office; and Mona Badie, also Staff Counsel with our Chief Counsel's Office. And over here we have Theresa Daniels running our WebEx.

Here is the agenda for today's workshop:

First, we will cover some basic housekeeping, then a little background for the RPS Regulations. After that, I will cover the proposed modifications to the regulations, section by section, followed by next steps for the rulemaking process, and we will finish the workshop with discussion and comments, organized by topic.

Handouts are on the desk when you first come into the hearing room and include copies of the presentation, the workshop notice, and the proposed amendments to the regulations. We also have a sign-in sheet located on the same table as the handouts, so please sign in if you haven't

1 already.

2 The restrooms are located on the first floor to
3 the left as you exit the Hearing Room. We have a snack bar
4 on the second floor across from the top of the stairs, if
5 you need any sustenance.

6 For emergency evaluation procedures, follow Energy
7 Commission staff out the front doors and across the street
8 to Roosevelt Park.

9 We are running this meeting through WebEx. This
10 meeting is being recorded via WebEx and we're also being
11 transcribed by a Court Reporter. This presentation will be
12 available on the Energy Commission's website after today.

13 For comments after the presentation, those of you
14 in the room will be able to either come up to the table or
15 to the podium.

16 Those of you who are commenting via WebEx, just
17 use the "raised hand" feature and we'll unmute you when it's
18 your turn. We will be sure to check WebEx for commenters
19 during every topic.

20 At the end of the comments in the room and on
21 WebEx, we'll open up the phone lines. Please make sure to
22 mute yourself so that we can hear anyone with a comment.

23 For written comments, please submit them according
24 to the directions in the Workshop Notice that is available
25 on our website. And comments should be submitted using our

1 e-filing system.

2 First, some background. The original RPS was
3 signed into law in 2002 for retail sellers, slowly ramping
4 from 20 percent by 2017 to 20 percent by 2010. During that
5 time, publicly-owned utilities, or POUs, set their own RPS
6 goals and programs.

7 In 2011, SB X1-2 set a new target of 33 percent by
8 2020 for all utilities.

9 The Energy Commission adopted RPS Regulations for
10 the POUs in June of 2013, and they were effective October of
11 2013. Since then, we have modified the regulations to
12 incorporate a new hydro exemption from SB 591, and to make
13 other clarifying changes. The modifications were effective
14 in April of 2016.

15 Senate Bill 350 codifies Governor Brown's landmark
16 renewable policy goal originally laid out in last year's
17 inaugural address -- or was it the year before?
18 (Laughter.) Inaugural address, which called for a
19 50 percent RPS by the end of 2030.

20 The Energy Commission adopted an Order Instituting
21 Rulemaking in January of 2016 for all aspects of SB 350 that
22 will be implemented by the Energy Commission, but this
23 specific segment of SB 350 being discussed today is the
24 increase of the RPS to 50 percent and how the Energy
25 Commission will be implementing SB 350's changes to the RPS

1 program for POUs.

2 We will now cover our proposed amendments to the
3 regulations by section.

4 In section 3201, we have added three new
5 definitions:

6 The first is "Contract Execution Date." This
7 definition was added to clarify how we determine whether a
8 contract is executed before or after June 1, 2010, for
9 purposes of section 3202.

10 We also added a definition for "Ownership
11 Agreement Execution Date" that addresses how the execution
12 date is determined for ownership agreements, depending on
13 whether there is an actual signed ownership agreement and
14 whether the facility is a renewable resource when ownership
15 begins.

16 The third new definition is "Contract Start
17 Date." This definition was added due to the use of contract
18 start date in the calculation of contract length for the new
19 long-term contracting requirement. This definition is
20 limited to contracts because the calculation of contract
21 length is not needed for ownership agreements.

22 We have also updated three definitions:

23 "Ownership agreement" was clarified to move the
24 discussion of its execution date into a new separate
25 definition.

1 "RPS procurement requirements" was updated to add
2 long-term contracting as a procurement requirement. Now,
3 every time that we use "RPS procurement requirements" in the
4 regulations, it applies to the target, the portfolio balance
5 requirements, and, starting in 2021, the long-term
6 contracting requirement.

7 Third, we updated "RPS procurement target" to
8 reflect that the target may differ for POUs qualifying for
9 the exemptions in Public Utilities Code sections 399.30 (j)
10 through (m).

11 Previously, there was only one exemption listed
12 here, and so we want to expand that to include all of them.

13 Section 3202, Qualifying Electricity Products.
14 Our proposal only contains small, non-substantive changes.
15 The only changes are to update the section references for
16 re-numbered exemptions in section 3204.

17 And section 3203 – this is my favorite. There are
18 no proposed changes to this section.

19 Section 3204, RPS Procurement Requirements.
20 SB 350 sets new post-2020 procurement targets for POUs to
21 procure 40 percent renewables by the end of 2024, 45 percent
22 by the end of 2027, and 50 percent by the end of 2030.

23 The three new compliance periods were added to
24 section 3204, with linear soft targets in the intervening
25 years.

1 We also proposed standard three-year compliance
2 periods after 2030, with a 50 percent average procurement
3 target.

4 In subsection (c), the portfolio balance
5 requirements for the new compliance periods remain the same
6 as those for 2017 through 2020, with a minimum of 75 percent
7 from Portfolio Content Category 1, and a maximum of
8 10 percent from Portfolio Content Category 3.

9 We have proposed some reorganization within
10 section 3204 to accommodate the new compliance periods. We
11 created a new subsection (b) to hold all of the special
12 exemptions for the procurement requirements, and renumbered
13 all of the existing exemptions to be part of the new
14 subsection (b).

15 In order to make room for this new subsection (b),
16 we had to renumber the existing (b) as subsection (e). So,
17 the affected language, shown here on the slide, is in both
18 strikethrough and underlined in the draft, but the only
19 thing that is actually changing to this language is the
20 section number.

21 The proposed amendments contain two new exemptions
22 within section 3204. The first is an exemption for large
23 hydro.

24 As background, there are two POUs that already
25 have special procurement requirements due to their owned

1 large hydroelectric facilities: San Francisco and Merced
2 Irrigation District.

3 SB 350 adds a third hydro exemption that may apply
4 to several POU's. The exemption applies to POU's that procure
5 more than 50 percent of their retail sales from certain
6 qualifying large hydro facilities in any given year. The
7 exemption prevents the combination of the large hydro
8 generation and renewable procurement from exceeding the
9 POU's retail sales during years when hydro is high.

10 The proposed language establishes how a POU may
11 qualify for this exemption, and also implements the
12 exemption with an annual comparison of retail sales
13 unsatisfied by hydro and the soft target for that year.

14 The second exemption is a potential reduction in
15 retail sales used to calculate the procurement target, and
16 it is available for POU's with a qualifying green pricing
17 program or shared renewable generation program.

18 In order to qualify, procurement must meet the
19 requirements for Portfolio Content Category 1 and be located
20 close to load. This exemption is retroactive back to 2014,
21 and once we have rules in place, qualifying POU's will be
22 able to report for all three years of the second compliance
23 period.

24 SB 350 introduces a new requirement for POU's to
25 procure more renewables through long-term contracts so that,

1 beginning in 2021, at least 65 percent of retirements in
2 each compliance period must be from contracts of ten years
3 or longer or from ownership agreements. This requirement is
4 now located in section 3204 (d), and within that subsection
5 we specify how contract length will be calculated.

6 In section 3205, we added a reference to the new
7 Integrated Resource Plan requirement, or IRP, established in
8 Public Utilities Code section 9621. This requirement is
9 only for POU's with an annual demand exceeding 700 gigawatt-
10 hours, and will be implemented in a separate rulemaking.
11 The proposed language in these regulations is only to
12 address any overlapping noticing requirements for the
13 procurement plan.

14 Section 3206, optional compliance measures.
15 Starting in 2021, POU's can now bank Portfolio Content
16 Category 1 RECs procured under contracts of any length that
17 are in excess of their RPS target. However, Portfolio
18 Content Category 2 can no longer qualify as excess
19 procurement; it can only be applied toward the target.

20 I want to quickly note that this change does not
21 affect any procurement that qualifies as excess procurement
22 prior to 2021, no matter when it is used. So, for example,
23 a bucket two REC that qualified as excess procurement in the
24 first compliance period can be used after 2021. This -- the
25 new rules are only kind of going forward.

1 The proposed regulations add a new calculation for
2 excess procurement starting in 2021, and also allows a POU
3 that meets the long-term contracting requirements starting
4 in 2017, to use the new excess procurement calculation in
5 the 2017 to 2020 compliance period.

6 SB 350 updated two optional compliance measures
7 that can be used to excuse a shortfall in meeting the RPS
8 procurement requirements.

9 One of the options is cost limitations, which
10 limits what a utility will pay for renewable generation in
11 order to avoid excessive rate impacts from the RPS. SB 350
12 revises the requirements so that expenditures used to
13 determine the cost limitation are no longer required to rely
14 on a utility's most recent procurement plan, and it is no
15 longer specified that procurement expenditures must exclude
16 indirect expenses. The proposed regulations update the cost
17 limitation requirements in parallel with the updates in
18 SB 350.

19 Another optional compliance measure is delay of
20 timely compliance, which has a set list of existing
21 conditions to excuse non-compliance. SB 350 revises the
22 conditions for delay of timely compliance by adding
23 unanticipated increases in retail sales due to
24 transportation electrification to the existing list, and
25 specifies that, in the case of unanticipated curtailment of

1 renewables, a waiver must not result in an increase in
2 greenhouse gas emissions. The proposed regulations
3 incorporate these two changes to the existing language for
4 delay of timely compliance.

5 A completely new compliance measure in SB 350 is
6 for POU's with unavoidable long-term contracts or ownership
7 agreements with coal facilities located out of state. To
8 show that the agreement is unavoidable, the POU must
9 demonstrate that any cancellation or divestment of the
10 agreement would result in significant economic harm to the
11 POU's retail customers that can't be mitigated.

12 If the conditions specified in the statute are
13 satisfied, a POU can adjust its RPS procurement target, only
14 for the 2021 through 2024 compliance period, so that the
15 combination of renewable procurement and coal procurement
16 doesn't exceed the POU's retail sales for that compliance
17 period. However, a qualifying POU cannot reduce its target
18 to lower than 33 percent of its retail sales.

19 Similar to the other optional compliance measures,
20 a qualifying POU may submit its request to the Executive
21 Director using the same process established in
22 section 3206(d).

23 Section 3027, Compliance Reporting for POU's.
24 Section 3207 sets out both the annual and compliance period
25 reporting requirements for POU's. The proposed regulations

1 eliminate a few unnecessary requirements in an attempt to
2 reduce the amount of reporting required. For example, we
3 removed an annual requirement to report the year the POU was
4 established. It doesn't really change year to year. It
5 doesn't seem necessary.

6 We did add one new annual reporting requirement --
7 we are now asking for forecasted REC retirements, to match
8 the forecasted retail sales that we already require.

9 The proposed regulations also make minor
10 clarifications to the energy consumption reporting
11 requirement that was added earlier this year in the last
12 rulemaking.

13 The proposed regulations also add new reporting
14 requirements for any POUs qualifying for either the large
15 hydro or green pricing program exemptions in section 3204,
16 and there are new reporting requirements for POUs with
17 unavoidable long-term procurement, as specified in
18 section 3206. These new requirements only apply to those
19 POUs that qualify for the applicable exemption or optional
20 compliance measure.

21 In section 3208, the proposed regulations add the
22 long-term contracting requirement as a separate potential
23 complaint during our enforcement process, starting in 2021.

24 And last section -- section 1240. We updated the
25 referral process in the enforcement section so that the

1 Energy Commission will forward a copy of the notice of
2 violation and record of proceedings to both the Air
3 Resources Board and the applicable POU.

4 Next, we have next steps.

5 Comments on the pre-rulemaking draft are due by
6 5:00 p.m. on September 2. Written comments should be filed
7 through our e-filing system, and detailed instructions for
8 the submittal process are included in our Workshop Notice.
9 The docket number for this proceeding is 16-RPS-03.

10 We have included a tentative schedule for the
11 formal rulemaking process to give everyone an idea of what
12 comes next.

13 Once we've received everyone's comments on the
14 pre-rulemaking draft and evaluate them, we will begin
15 drafting the 45-day language, as well as the rest of the
16 initial rulemaking package. We will also be available for
17 meetings or conference calls to discuss any of the topics in
18 greater detail, as needed, prior to the beginning of the
19 formal rulemaking process.

20 As you can see here, the formal rulemaking process
21 will likely kick off in the fourth quarter of 2016, and we
22 are aiming for a workshop before the end of the year.
23 Adoption of the amended regulations is scheduled to occur in
24 the first quarter of 2017, but the exact timing will depend
25 on whether we are doing 15-day language.

1 With that, we will start to take comments from
2 those in the room and on WebEx. We have organized the
3 discussion into these six topics, and people can either come
4 up to the table or to the podium with comments and questions
5 and we'll just do it one topic at a time. For those on the
6 WebEx, please "raise your hand" if you have a comment.

7 Also, since we are transcribing this workshop,
8 please provide the court reporter with a business card, if
9 you have one, and be sure to introduce yourself every time
10 you talk so that we can track who's talking when.

11 And the first topic will be long term
12 contracting. Who would like to go first?

13 (No audible response.)

14 MS. CHISHOLM: Nobody?

15 MR. WYNNE: This is Justin Wynne on behalf of the
16 California Municipal Utilities Association. I don't think
17 we have a lot of points on this topic. There's some overlap
18 with the next topic that I have some questions on.

19 But I would just thank you for some of the
20 clarifications you've provided, but I think -- when we're
21 looking at the language as it is, I think there's still a
22 lack of flexibility for -- particularly for small POU's. And
23 I think we talked about the difficulty that a small POU has
24 in quickly responding.

25 I understand, if you're a very large utility and

1 you have one or two contracts fail, it would be probably
2 simpler to get a few more contracts in place and be able to
3 meet your targets, but if you have three, four, five
4 contracts and one failed, it may take two years to negotiate
5 a new long-term contract and get it to start delivering. It
6 may be impossible to operate within this -- the -- as it's
7 been laid out in the regulations. So, I think that's
8 something that we'll provide some more comments on.

9 MS. CHISHOLM: Thank you.

10 Anyone else?

11 (No audible response.)

12 MS. CHISHOLM: Questions are also okay.

13 (No audible response.)

14 MS. CHISHOLM: Okay. Everyone wants to talk about
15 excess procurement. Is that right?

16 MR. BLACKBURN: (Speaking off mic.)

17 MS. CHISHOLM: Oh. I have to -- sorry. Yes.

18 Thank you for reminding me.

19 Anything on WebEx yet?

20 MS. DANIELS: No.

21 MS. CHISHOLM: No? Okay.

22 All right. Let's just jump into excess
23 procurement then.

24 MR. WYNNE: This is Justin Wynne for CMUA. Just
25 as a clarification so I can understand the interplay between

1 the 65 percent long-term procurement requirement and then
2 the excess procurement rules, as far as the ordering, it's
3 my understanding that you would fully run the excess
4 procurement calculation.

5 You would remove the RECs that are associated that
6 you want to be banked, and then what remains - and you are
7 truly counting for that compliance period - you would then
8 apply the 65 percent requirement to that. As opposed to the
9 reverse, where you would look at everything that you've
10 retired and counted, apply the 65 percent, remove any that
11 violate that, and then run the excess procurement.

12 So it -- and it wasn't clear to me, looking at the
13 rules, what the ordering is on that.

14 MS. CHISHOLM: Right. This is Emily Chisholm.

15 When -- is this to determine which calculation you
16 are using or just in determining the requirements?

17 MR. WYNNE: So, I guess, as an example, say a POU
18 retired and counted towards compliance in a compliance
19 period a mix that was only 55 percent long-term procurement,
20 but because there is excess there after they've pulled out
21 maybe a number of short-term RECs and put those into their
22 bank, the -- what is left over is 65 percent long-term
23 because they've basically banked a number of short-term
24 RECs.

25 My reading of the statute is that we'd still be

1 compliant with the long-term procurement requirements, even
2 though the original retired amount -- and then, when those
3 RECs are pulled out of the bank and put into the future
4 compliance period, they would have to meet a 65 percent
5 requirement for that period.

6 So, it's basically -- you're only using the RECs
7 that you are absolutely -- that you're actually counting,
8 not the RECs that you're pulling into excess procurement for
9 meeting the 65 percent requirement.

10 MS. CHISHOLM: Right. A -- the length of a
11 contract for RECs is only used in the calculations
12 once. So, it's either being used for that original
13 compliance period to meet the 65 percent, or it's excess and
14 it will only be used in the calculation whenever it's
15 actually applied. It won't be part of the calculation.

16 And it's the same with the portfolio balance
17 requirements. It won't be part of that calculation if it's
18 excess. So, that's kind of taken out separately before
19 those calculations.

20 MR. HERRERA: Yeah. Why don't you, in your
21 comments -- sorry about that.

22 Justin, in your comments, it would be helpful if
23 you included an equation that actually showed that so that
24 we can run it through to make sure it's consistent with our
25 understanding of what we had in mind when we drafted this

1 language.

2 MS. CHISHOLM: And I'd also like to point out, I
3 did add some language -- we -- sorry. We added some
4 language to section 3206. It's in (a)(1)(I) and it says
5 that:

6 "Electricity products that qualify as excess
7 procurement and are applied to a future compliance
8 period shall be included in the calculation of the
9 RPS procurement requirements of the future
10 compliance period to which they are applied."

11 MS. CHISHOLM: And I think that's kind of related
12 to what you're asking about and maybe we need to take it a
13 little bit farther to talk about it's not being applied to
14 the calculations for when it's retired.

15 MR. WYNNE: I think that would be helpful.

16 MS. CHISHOLM: Okay.

17 MR. WYNNE: I had another question. So, for the
18 provision where you can get early access to the new excess
19 procurement rules, if you can comply with the long-term
20 procurement requirement -- so I think the -- it was -- is
21 fairly simple language that you would just make the
22 selection.

23 And so, I guess my question is what are the
24 mechanics of that? Would you need to adopt that as part of
25 a procurement plan? Would that have to happen before the

1 end of the compliance period?

2 So, I think those are the two ones. How do you
3 demonstrate that election? Is that in the -- is that in a
4 procurement plan? And what's the timing of when you would
5 need to make that either adopted or make that declaration?

6 And I guess the follow-up is just that it would
7 be -- what are the consequences if you make that declaration
8 but then you don't actually meet the 65 percent requirement?

9 MR. HERRERA: So, I mean, it's based upon when the
10 reporting is due, Justin. So, you would need to have that
11 information to us so that we could take that into
12 consideration in making the calculation, right? So, I
13 imagine the reporting for that compliance period would come
14 in July following the end of that compliance period. We
15 would need to know in advance of that date to make sure that
16 the requirements were satisfied.

17 So, what happens if you make an election in
18 advance of that date and then it doesn't pan out? I think
19 that's sorted out, again, for the report for the compliance
20 period, at the end of the compliance period.

21 Is that what you were thinking, Emily?

22 MS. CHISHOLM: Yes. I think we don't specify some
23 of that because we're not requiring that in this draft. It
24 would just be part of the normal compliance period
25 reporting. You know, we are retiring this number of RECs.

1 We think we qualify for excess procurement and we also think
2 we qualify for the early long-term contracting and
3 therefore -- and, as we would then verify do you meet that
4 requirement? If yes, then you get to use the new
5 calculation. But I think there's a lot of room for
6 clarification in the reporting and I'd be really interested
7 if you have any suggestions on how to clarify that. Or if
8 you'd like a more clear procedure.

9 MR. WYNNE: And so -- and maybe just on -- would
10 it be possible that it's just in the compliance period
11 reporting format that the election would just be made by
12 selecting something in the actual report and that would be
13 the first time you're making that election?

14 MS. CHISHOLM: That is absolutely possible.

15 MR. HERRERA: Yeah. It's possible. I mean, let
16 me ask you something. Would the POU -- excuse me, POUs need
17 to get some sort of advance approval from their boards, the
18 governing bodies, to do this? Would that be done, say, in
19 advance of a POU you thought that they might qualify for the
20 earlier rules because they met the 65 percent requirement
21 sooner, right? Would that be specified in some sort of a
22 procurement plan or an update to the procurement plan?

23 MR. WYNNE: I think it would be hard to answer
24 that because the -- I think there's such a variety of how
25 POUs approach the procurement plans and how often they

1 update them and what they put into them. And so, I also
2 think there's a hesitancy to adopt in a procurement plan
3 something you present to your city council and it's adopted
4 and if you're uncertain about what the consequences would be
5 and then you might have to readopt something.

6 MR. HERRERA: I -- yeah.

7 MR. WYNNE: The timing of that is so -- like, you
8 need months of lead-up to doing something like that. So, I
9 think they would be hesitant to do something like that. But
10 I think I'd need more input from others.

11 MR. TUTT: This is Tim Tutt from SMUD, and I guess
12 one thought I have on this issue is the concept of going
13 early for this excess procurement is that you will actually
14 consider short-term contracts during the 2017 to 2020
15 compliance period because you'll be allowed to count them
16 without harm on your excess procurement.

17 If there is some risk that aren't -- don't qualify
18 for that or if there's no certainty that you qualify for
19 that until the reporting happens in 2020 or 2021, I find
20 it -- I can see my traders and my business planning people
21 saying, why should we take advantage of this if we don't
22 know it's going to work for us?

23 So, it would be nice to have some degree of
24 certainty up front if -- and I think the law says that a POU
25 can certify that they have -- that they will do long-term --

1 more than 65 percent. Is there some certification step up
2 front that you would consider that -- and you probably would
3 have a good idea from just the contracts that you have
4 information on at the beginning of the compliance period,
5 for example, whether or not that 65 percent limit is really
6 going to be met or there is some question about it?

7 In cases where it's clearly going to be met, can't
8 you just certify -- or allow that to be certified up front?

9 MS. CHISHOLM: That doesn't sound -- sorry.

10 (Laughter.) Until we know which RECs are being retired, as
11 much as we appreciate your certification that they will be
12 long-term, I think there is a desire for us to verify that
13 fact, which is why I think we wanted to have all the
14 reporting at the same time so we'd have complete -- once you
15 have everything retired, you'll have a better idea of
16 whether you've met the requirement and we'll have a better
17 idea if you've met the requirement.

18 But, if there is some kind of upfront discussion
19 that you would like to have before the end of the compliance
20 period, we can definitely consider that.

21 MR. HERRERA: So, Tim, what would you do, for
22 example, if the -- you know, the POU thought, based upon the
23 contracts they had at the beginning of the compliance
24 period, that they were good to meet the 65 percent, and then
25 something went, you know, sideways and the PPA fell out, the

1 contract -- the facility that was being developed is being
2 delayed and so now you're potentially short on the
3 65 percent. I mean, what value would the certification up
4 front have in that case?

5 MR. TUTT: I suppose the value would be a
6 commitment by the POU that they're interested in taking
7 advantage of this -- or considering this excess procurement
8 flexibility, so they're certifying that they will meet that
9 requirement and, if something goes sideways so that they're
10 in danger of not, they'll take some action to sign up a new
11 long-term contract to make it work.

12 MS. CHISHOLM: Any other comments on excess
13 procurement?

14 (No audible response.)

15 MS. CHISHOLM: Everyone's feeling very quiet
16 today.

17 MR. TUTT: Can I just ask, outside of the early
18 action portion of this, when you get to 2020 and beyond, is
19 it the same structure you're envisioning? You have to meet
20 a 65 percent requirement and the only way that you know that
21 you've met that requirement is through the reporting at the
22 end of the compliance period?

23 MS. CHISHOLM: Is this combined with excess
24 procurement or a separate question from excess procurement?

25 MR. TUTT: Combined with excess procurement.

1 Yeah.

2 MS. CHISHOLM: That makes it more complicated.

3 MR. TUTT: So, I guess I'm just thinking, even
4 after 2020, there might be some consideration of risk on the
5 contractor -- on my contract folks if they -- you know, if
6 they are -- were close to 65 percent in the compliance
7 period and we're not absolutely sure we're going to make it,
8 will they say, I can't sign up these short-term contracts
9 because I won't get any certainty until the end of the
10 compliance period whether this is going to happen?

11 MS. CHISHOLM: Well, is that similar or different
12 from a portfolio balance requirement where you're not sure
13 if you're going to meet that? I mean, that's another thing
14 where you -- that might make a difference in whether you
15 have excess procurement or not - whether you end up meeting
16 that. Is it a similar requirement or are they somehow
17 different?

18 MR. TUTT: I think it's a similar risk. Yeah, I
19 mean, if an entity is running close to what they perceive as
20 their minimum PCC 1 procurement, for example, or their
21 maximum PCC 3 procurement, and they don't have any certainty
22 about actually where they are until after the certification
23 happens by you guys after the reporting. Yeah, there's
24 going to be some impact on contract decisions that say, you
25 know, we can't take the risk.

1 So, we've always advocated if we could to have
2 some degree of greater certainty up front, even when we
3 certify a contract -- or a resource, as you know, is this
4 PCC 1? Okay, it's located in Solano County, right in the
5 middle of California - can't we say this is a PCC 1
6 resource? And I think the answer has consistently been we
7 won't tell you that until after we've verified it in
8 reporting. But there should be some leeway there, in my
9 mind.

10 MS. CHISHOLM: Thank you.

11 Any other comments in the room on excess
12 procurement or questions?

13 (No audible response.)

14 MS. CHISHOLM: Anything on WebEx?

15 (No audible response.)

16 MS. CHISHOLM: All right. The green pricing
17 program retail sales reduction.

18 Justin, would you like to start us off?

19 MR. WYNNE: This is Justin Wynne for CMUA. So, I
20 think this is a really complicated area and so I certainly
21 don't have all of our thoughts together. I think we still
22 need to get together and talk about it. But I just have one
23 question.

24 As I understand, the statutory language allows
25 this to apply for the second compliance period because it

1 starts in 2014.

2 MS. CHISHOLM: Correct.

3 MR. WYNNE: And so, looking at the schedule that
4 you have laid out and when we would have to file our
5 compliance period reports, I don't know if there's any -- I
6 mean, it just strikes me that we may be filing our
7 compliance period reports potentially before we would have
8 these regulations in place.

9 MS. CHISHOLM: In my best case scenario, we will
10 have these in place before the July 1st reporting deadline
11 and well before the July 1st reporting deadline, but I
12 realize that might not happen, in which case we may need to
13 put together some kind of extension for that particular part
14 of the compliance period reporting.

15 And we may also allow people to report early, even
16 if the rules aren't in place if we have something, you know,
17 to OAL kind of as a voluntary reporting with the ability to
18 update it once they become effective.

19 MR. WYNNE: I guess -- I think I'd need to talk on
20 our side more, but it may impact how you are retiring RECs
21 and what RECs you're retiring into what accounts based off
22 of whether or not you qualify for this program. And so, I
23 could see it being important for the actual retirement
24 decision of utilities.

25 MR. HERRERA: And delaying the reporting wouldn't

1 help because you'd want to get kind of advance certainty or
2 advance direction on --

3 MR. WYNNE: Yeah, and I'm not sure what the --

4 MR. HERRERA: -- how the rules are going to come to
5 pass?

6 MR. WYNNE: I'm not sure what the solution would
7 be.

8 MR. HERRERA: Okay.

9 MR. WYNNE: So.

10 MR. TUTT: So, this is Tim Tutt.

11 And clearly SMUD has some interest in this
12 provision with our Greenergy program and our expanding
13 SolarShares program. And I guess I have two comments right
14 now and then we'll continue to talk about the issue amongst
15 the POU's.

16 And the first is it seems to me that you should
17 include a change in the retail sales definition to reflect
18 this possibility of reducing the retail sales for purposes
19 of the RPS calculation based on subtracting these green
20 pricing resources.

21 I don't know if there's some other part of the
22 regulations where that's taken into account. I just didn't
23 see it in the retail sales definition. That's where I
24 thought it would show up.

25 And the second is the provision about excluding

1 these electricity products suggests that the resources --
2 the eligible resources would have to be located within the
3 POU service territory. And this is a question where with a
4 great variety of POUs, and particularly the size of POUs,
5 some very, very small, others larger like LADWP and SMUD,
6 that can be very constraining for an individual POU.

7 And there may be absolutely no renewable resources
8 available easily within a very small service territory.
9 Even with SMUD, it could be constraining because, I mean,
10 our service territory is -- it's significant, but it's the
11 county of Sacramento, basically, and there there's a lot of
12 rural -- or urban area in that county, not necessarily a lot
13 of -- you know, there's no geothermal that I know of, for
14 example, et cetera.

15 So, some degree of expansion of that constraint
16 seems reasonable to me to handle the variety of different-
17 sized POUs, and we're certainly open to talking about what
18 that expansion might be, throwing around ideas. We'll try
19 to toss out some in our written comments.

20 MR. HERRERA: All right. So, Tim, to your second
21 point, I mean, the language in the draft regulations right
22 now says "to the extent possible." I mean, this is
23 starting-point language, right? Obviously, if there's not a
24 renewable resource that meets your needs that can be tapped
25 for purposes of your green pricing program, right, within

1 your service territory, then you need to look outside your
2 service territory.

3 I mean, if that's the case, I mean, what should
4 the Energy Commission look for, you know, to show that the
5 POU tried but didn't find resources within their service
6 territory to satisfy this need? So, it would be helpful, I
7 mean, in providing comments for you to think about that and
8 maybe speak to it.

9 MR. TUTT: Sure. You know, one thought off the
10 top of my head is that if you would consider expanding the
11 definition, then that burden of proof wouldn't actually be
12 necessary in many cases. I mean, asking, I don't know, the
13 city of Biggs to first provide some proof that there's no
14 resources within their service territory before they can
15 access a resource right outside their service territory - do
16 you really need to do that?

17 MR. HERRERA: Yeah.

18 MR. TUTT: Maybe not go through that step, that
19 administrative work, and just think about expanding the
20 definition from the get-go.

21 MR. HERRERA: Okay. And so, when you're saying
22 expanding the definition, you're not talking about expanding
23 the definition on retail sales. I mean, that was the first
24 point you made. But I guess I'm still thinking about why
25 that's necessary, if the calculation that goes into

1 determining, you know, what portion of the retail sales are
2 subtracted due to the green pricing program, for example.
3 And shouldn't retail sales be the same whether, you know,
4 the energy being provided to your customer is based on
5 renewable resources or nonrenewable resources?

6 MS. CHISHOLM: Yeah. I think our interpretation
7 right now is not that retail sales were changing. You will
8 still report your retail sales and then, as a separate item,
9 report this adjustment.

10 MR. TUTT: As long as that's in there somewhere.

11 MR. HERRERA: Yeah.

12 MR. TUTT: I think that's good.

13 MS. CHISHOLM: Okay.

14 MR. TUTT: That's fine.

15 MS. CHISHOLM: Anyone else for green pricing
16 programs?

17 Oh, good.

18 MR. GONCALVES: Yeah. And --

19 MS. CHISHOLM: Another -- two more SMUD
20 commenters. Come on up.

21 (Laughter.)

22 MR. GONCALVES: Hello. Tony Goncalves with SMUD.

23 MS. CHISHOLM: It's not on.

24 MR. GONCALVES: Okay. Tony Goncalves with SMUD
25 and I just had a question on your slide. It looks like it

1 indicates that RECs need to be PCC 1 -- or am I reading that
2 they have to be classified as PCC 1, or can they be PCC 0s
3 that, if not a zero based -- because of the date of the
4 contract, they would have met the requirements of the PCC 1?

5 MR. CHISHOLM: The second.

6 MR. GONCALVES: The second?

7 MS. CHISHOLM: Yes. They have to meet the
8 criteria in section 3203 for Portfolio Content Category 1,
9 but they do not actually need to be qualified as Portfolio
10 Content Category 1.

11 MR. GONCALVES: All right. Thank you.

12 MS. CHISHOLM: So, for example, grandfathered in
13 state might qualify for grandfathered from (indiscernible)
14 to put in.

15 MR. GONCALVES: Okay.

16 MR. WESTERFIELD: Good afternoon. Bill
17 Westerfield with SMUD.

18 I wanted to follow up on the discussion that Tim
19 was having and we were talking about the green pricing
20 program and the possible geographic constraint that exists
21 on -- so that any resource might have to be in a POU's
22 territory to the extent possible.

23 I mean, the obvious sort of problem you might have
24 is when you have a very small POU that has a very small
25 territory. It might be obvious to anyone that they would

1 not have a renewable resource at that site in a city that
2 makes any real difference to their portfolio. So, if you
3 were to ask them, for example, to go through an RFP to
4 demonstrate something that is so obviously futile and
5 pointless, that's not something that I think is
6 administratively wise.

7 But I think the Energy Commission has at its
8 disposal quite a lot of information about where our
9 renewable resources are around the state, and certainly
10 where cost-effective renewable resources are in the
11 locations of certain POUs.

12 So, perhaps they can draw upon that -- those
13 studies, draw upon that expertise and, say, look at a POU
14 and say, well, within a certain geographic zone around
15 certain POUs, it makes sense to say that the -- that
16 renewable resources are available to the extent possible
17 because we know that within ten miles or fifty miles of
18 something, of some area, the resource is essentially the
19 same. And then, you might be able to put some geographic
20 bounds on that definition that would make it easier for the
21 small POUs.

22 MR. HERRERA: One quick comment, Bill. So, this
23 language is not unlike the language the CPC adopted for the
24 IOUs, right, in their Green Shared Tariff program, right, as
25 kind of a starting point?

1 I believe the CPC in their decision required that
2 that power be located within the service territory of an
3 IOU. I mean, if it makes sense for the Energy Commission to
4 treat POUs differently because, in fact, IOUs are different
5 than POUs, then perhaps you can explain that in your
6 comments and explain why it doesn't make sense in this case
7 to try to treat POUs similar to IOUs.

8 MR. WESTERFIELD: Yeah, we can do that. We'd be
9 happy to do that.

10 MR. HERRERA: Thanks.

11 MS. CHISHOLM: Thank you.

12 We do have a commenter on WebEx.

13 Jeff Leach, we will unmute you.

14 MR. LESCH: Hi. Yes, this is the City of
15 Riverside. This is actually Scott Lesch --

16 MS. CHISHOLM: Oh, wow.

17 MR. LESCH: -- on the call right now. Jeff logged
18 in for me.

19 MS. CHISHOLM: Okay. Thank you.

20 MR. LESCH: We would like to back up and second
21 what SMUD is saying here and -- on the issue of where the
22 renewable energy needs to be to satisfy a green pricing
23 program. And, just very briefly, I'd like to give you a
24 practical example of why this is problematic for us.

25 We have been approached by the University of

1 California, Riverside, to help them achieve a GHG-free
2 portfolio by the year 2025. And they have an annual load of
3 110,000 megawatt-hours a year, which they expect to get up
4 to 150,000 megawatt-hours a year by 2025.

5 We would like to be able to help them reach that
6 goal by giving them renewable energy from our renewable
7 energy portfolio, but it will require us to use our entire
8 portfolio that we have -- assets from our entire portfolio.

9 They're all located within the state of
10 California; they are all bucket one products. That's a
11 practical example where this regulation right here would
12 probably preclude us or potentially preclude us from meeting
13 that objective. And we'd just like the CEC to consider
14 that. We'll put that in written comments, but that's an
15 example -- one example where the POUs might be in a somewhat
16 different situation.

17 MS. CHISHOLM: All right. Thank you.

18 MR. HERRERA: Tim, can I ask you a question -- or
19 anyone from SMUD, actually?

20 (No audible response.)

21 MR. HERRERA: So, the statute refers both to a
22 voluntary green pricing program or to a shared renewable
23 generation program. We don't -- in the regulations right
24 now, haven't attempted to distinguish between those two. Do
25 you see a difference between those two types of programs? A

1 difference that would require, perhaps, changes to the draft
2 regulations?

3 MR. TUTT: I'll think about that and talk about
4 it -- or weigh in on it in written comments, I guess. I
5 mean, I do think they are slightly different programs. Just
6 conceptually, it seems like a shared renewable -- a shared
7 solar program, for example, is conceptually thought to be
8 closer to the customers generally in past experience. So,
9 there may be some difference there that we could elucidate
10 on in written comments.

11 MR. HERRERA: Thanks.

12 MS. CHISHOLM: Expand on that just a little bit.
13 We did kind of struggle with making sure it's -- you know,
14 there are things that the actual program itself needs to do
15 to qualify and things that the RECs that are part of the
16 adjustment have to do to qualify and those are kind of
17 sometimes mixed together. But helping us make sure that
18 we're keeping those lines separate, that would help us,
19 too. You know, where do we need to define the programs and
20 how to define the programs - that helps us.

21 MR. TUTT: Okay.

22 MS. CHISHOLM: Thank you.

23 MR. TUTT: And I think -- just one point of
24 clarification. I'm not an expert by any means on the CPC's
25 decision on these issues for the IOUs, but I do seem to

1 remember that, for the smallest IOU, San Diego Gas and
2 Electric, they did allow some procurement under this
3 provision from outside of SDG&E service territory.

4 MS. CHISHOLM: Very good. Perfect. Sorry.

5 MR. HERRERA: Thanks, Tim. That's good to know.

6 (Laughter.)

7 MS. CHISHOLM: All right. Anything else on the
8 green pricing program or anything related to that?

9 (No audible response.)

10 MS. CHISHOLM: WebEx?

11 (No audible response.)

12 MS. CHISHOLM: All right. I have large hydro
13 exemption next, but I notice NCPA is not here yet. So,
14 unless there's anyone here who wants to talk about that
15 right now, we might push that back a little bit.

16 (No audible response.)

17 MS. CHISHOLM: Okay. Moving on to unavoidable
18 long-term procurement for coal. SCPPA, would you like to
19 start?

20 MS. TAHERI: Sure. Sarah Taheri with SCPPA
21 here. So, I don't have a whole lot to offer on this but,
22 just from a preliminary review, we are still looking at the
23 regulation. We think that the proposed language wouldn't
24 allow us to implement in a way that aligns with what the
25 intent of the discussion that was happening at the end of

1 session were.

2 So, we would like to continue talking with staff
3 about that. We have had some discussions with a few of the
4 other stakeholders that were involved in those chats: TURN
5 (phonetic), Mark Joseph from labor - those are very
6 preliminary discussions so far this year. But we are hoping
7 to continue reviewing and then possibly loop back with you
8 guys to see if we can get some clarifications there on how
9 that can be implemented in a way that both meets the intent
10 that we thought we were going for as well as meets the
11 letter of the law, so to speak.

12 So, that's really all I had on that, but I would
13 be curious to hear, you know, a little more about how you
14 guys were thinking of this when you put it in the actual
15 language in the regs.

16 MS. CHISHOLM: Sure.

17 MS. TAHERI: And --

18 MS. CHISHOLM: (Laughter.) The calculation that
19 we included, which is a lesser-of comparison -- sorry.
20 Lesser-of comparison, I think, was taken in our best reading
21 of the statute, but we do recognize that it is perhaps not
22 matching the intent of the statute.

23 So, we are definitively interested in other ways
24 of putting in a calculation that both, you know, has the
25 intent but also matches the wording of the statute. Some

1 balance there, we're definitely interested in that.

2 The rest of the language is fairly basic about --
3 just from the statute about "unavoidable" - definitions like
4 that. So, I don't know if you have any concerns about that
5 or if it's mostly just the calculation.

6 MS. TAHERI: Yeah, I think it's just -- yeah, the
7 way that it would practically be implemented in terms of the
8 calculations, but we are looking through. We'll try to put
9 together some thoughts here on, you know, how we could work
10 with that and we do plan on submitting written comments, so
11 this will surely be one that we touch on.

12 Hopefully, again, we can follow up with you on
13 that.

14 MS. CHISHOLM: And if we do have, you know, other
15 conversations about this, we're interested in how this
16 affects members. I know I've already gotten some
17 information from you, but understanding how maybe your
18 different members have different situations and how it might
19 affect them differently - that's helpful if you have any
20 information to share.

21 MS. TAHERI: Okay. We can flag that as a follow-
22 up and get back to you on that.

23 MS. CHISHOLM: Thank you.

24 MR. HERRERA: Sarah, I have a question.

25 MS. TAHERI: Sure.

1 MR. HERRERA: So, this language is drafted very
2 generically, but are there specific coal-fired power plants
3 that were contemplated with the legislation and, if so -- I
4 mean, some of these requirements, for example, on the amount
5 of coal being used annually, does that makes sense? Or is
6 it really not necessarily because the coal plants that are
7 contemplated here use 95 percent or 100 percent coal, you
8 know, for the most part?

9 MS. TAHERI: So, in terms of, I guess, your
10 question one - is there a specific plant that was
11 considered? I believe that the plant was IPP, but I would
12 defer to those that were around for those discussions.

13 And then, on the second part of your question, I'm
14 not sure I --

15 MR. HERRERA: Well, for example, if there were,
16 you know, just a couple of power plants, or one and that one
17 power plant is dedicated to use 95 percent coal, then a
18 requirement by the Energy Commission in the regulations that
19 the plant use 75 percent on an annual basis of coal seems
20 like it might be unnecessary or it might be low.

21 MS. TAHERI: I would have to get back to you on
22 that one, Gabe. Yeah.

23 MS. CHISHOLM: All right. Anything else on the
24 unavoidable long-term procurement?

25 (No audible response.)

1 MS. CHISHOLM: WebEx?

2 (No audible response.)

3 MS. CHISHOLM: All right. Moving on to all other
4 comments. So, this is where you get to bring whatever is on
5 your mind.

6 Justin?

7 MR. WYNNE: (Laughter.) This is Justin Wynne for
8 CMUA. So, the first question I have is on the reference
9 that a POU that has to file an IRP shall incorporate its
10 procurement plan into their IRP. And I understand the --
11 that the statute said you had to do this so I'm sympathetic,
12 but I would just -- when I read that, it doesn't make a lot
13 of sense to me because your procurement plan and when you
14 adopt it would likely not align with when you are required
15 to adopt IRPs.

16 One, the timings are different. The compliance
17 periods don't line up with IRP reporting periods. You may
18 have very specific reasons why you want to adopt a
19 procurement plan because of certain things that have to be
20 demonstrated in it. A lot of the details of a procurement
21 plan don't -- aren't really necessary for the IRP analysis,
22 and so I would just like to know what this means to you.

23 MS. CHISHOLM: I'll let Gabe go on that one.

24 MR. HERRERA: So, we were thinking at some point,
25 you know, the select POUs that would be subject to the IRP

1 requirement would adopt a, you know, broader document that
2 would have, as part of it, perhaps elements dealing with
3 renewable procurement for the RPS.

4 And, if that's the case, if the POU is adopting
5 this broader document, right, then do they need to continue
6 providing the RPS verification -- procurement -- excuse me,
7 the procurement plans, enforcement programs that they've
8 adopted for the RPS? And, if not, is there still an
9 obligation for them to disclose that portion of the IRP
10 dealing with the RPS to the public consistent with those
11 POUs that aren't subject to the IRP requirements? That's
12 what we were thinking.

13 MR. WYNNE: Yeah. So, I think as long as it's
14 clear that a POU would still be able to adopt a procurement
15 plan independent of its IRP requirements moving forward, and
16 I assume that's still -- that you wouldn't believe that an
17 IRP would need to be run every time they want to adopt a
18 procurement plan - that they would be able to update the
19 procurement plan independent of an IRP filing?

20 MR. HERRERA: I would think so, yeah. And they
21 may even, in fact, indicate in their IRP, right, that they
22 could update different components separate from the broader
23 document. For example, the RPS procurement plans.

24 MR. WYNNE: And I think it might be helpful to
25 talk to SCPPA and NCPA and others and -- because I imagine

1 one of the main goals would be just to avoid any unnecessary
2 reporting or any duplication reporting.

3 MR. HERRERA: Right.

4 MR. WYNNE: So, maybe -- I don't know if it needs
5 to be put into here or not. Maybe it could be part of the
6 IRP guidelines, but --

7 MR. HERRERA: Right. Those guidelines are moving
8 forward and they're obviously not going to be adopted before
9 the POU regs are adopted - at least, I don't think. And so,
10 I think we were primarily interested in dealing with the
11 public noticing requirements for the RPS procurement plans
12 and enforcement programs.

13 There are provisions in the regulations now that
14 say certain elements need to be publicly disclosed to
15 members of the public and when and, if a POU is no longer
16 obligated to prepare a procurement plan for the RPS because
17 that is now subsumed in an IRP, is there still an obligation
18 to make at least elements of that IRP dealing with the
19 procurement plans of the RPS public? That's what we were
20 thinking.

21 MR. WYNNE: Okay. That makes sense.

22 I had other topics. I don't know if I should --
23 so, the two parts of the changes to the delay of timely
24 compliance starting with unanticipated curtailment - again,
25 I am sympathetic because it's in the statute, but I think

1 this is -- it's a confusing concept.

2 So, one, it would just be helpful if -- to
3 understand how you're thinking about what this would mean,
4 how you would show that the waiver doesn't result in an
5 increase in GHG emissions.

6 And then, I would also just ask -- the reference
7 to balancing authorities was deleted from the statute, but
8 it's still in your regulatory language.

9 MS. CHISHOLM: That was a test to make sure you
10 were (indiscernible).

11 (Laughter.)

12 MR. WYNNE: So, one, if that was intentional, and
13 just -- because, when I talk to people about this, I think
14 it's confusing what this actually means. And so, it would
15 be helpful if you just have any thoughts on what does it
16 actually mean.

17 MR. HERRERA: So, I don't -- so, I think here, you
18 know, like, for example, with the cost limitations, what we
19 were trying to do was just capture the language from SB 350
20 without giving it any additional thought at this point.
21 That's what is shown here. I mean, there's a little bit
22 more text with respect to "unanticipated increase in retail
23 sales due to transportation electrification," but we're
24 certainly looking for your input on this, on how it's best
25 to apply.

1 MR. WYNNE: And then, just my last question.
2 Just -- so, on the transportation electrification, is it
3 clear -- because there's a reference and I think both in the
4 statute and in here that the filing said CEC, ARB, or other
5 agencies.

6 I think it would be helpful to have a little bit
7 better understanding of exactly what the filings would be,
8 because I think there's probably a lot of different
9 potential options, and maybe -- I mean, I think it's
10 something that we need a little bit more discussion on our
11 side.

12 But I don't know if there were specific forecasts
13 or filings because I know it's part of, like, IEPR, and I
14 know there's things that are reported to ARB, and so it
15 wasn't clear to me exactly what the basis would be, and
16 would that be the POU would be able to put together what --
17 how they're interpreting or would be one filing that would
18 be applied to everyone?

19 MR. HERRERA: Yeah, I don't know the answer to
20 that. I mean, it could be that it's, you know, filing
21 specific to a POU. I don't know. Again, if you have ideas
22 on how this would be done, how best it should be done, let
23 us know.

24 We were trying to come up with -- provide a little
25 bit more meat in the regulation than what was provided, for

1 example, in the cost limitations and the delay of timely
2 compliance when we originally adopted the regulations just
3 to make it easier to apply.

4 And so, we tried to provide a little bit more
5 detail here on how we might assess whether a POU has
6 demonstrated that transportation electrification was
7 unanticipated at the level that was experienced by the POU.

8 MR. WYNNE: And just on the curtailment -- so, was
9 it -- are you interpreting that the reference that balancing
10 authorities should stay in? Or is that -- I wasn't clear
11 on -- so --

12 MR. HERRERA: No, I think that was just an
13 oversight.

14 MR. WYNNE: Okay.

15 MS. CHISHOLM: All right. Anyone who is not
16 Justin? (Laughter.) Sorry.

17 MR. TUTT: I just wanted to - this is Tim Tutt
18 from SMUD - to follow up on the concept of the procurement
19 plan being included in the integrated resource plan a little
20 bit. I guess it's been my understanding with the
21 regulations to date that, you know, we had to all file an
22 initial procurement plan and that, after that filing, it was
23 sort of optional for each POU to file additional procurement
24 plans as they wished, as they thought necessary. There was
25 no real requirement to do so.

1 It sounds like with this language you're
2 potentially establishing a requirement for POU's that are
3 covered by the IRP regulation to file a procurement plan at
4 least every four years. I just want to understand if that's
5 your intent or if I'm missing that.

6 MS. CHISHOLM: It's not our intent to add a new
7 requirement that does not otherwise exist. I think the
8 purpose of that language is really to reduce overlapping
9 noticing requirements, if they exist. So, we'll have to go
10 back and -- definitely, based on your input, to
11 understanding the -- how these are actually adopted, see if
12 language is necessary there or how the language can change
13 to be better.

14 MR. TUTT: Okay.

15 MS. WINN: Good afternoon. Valerie Winn, from the
16 Pacific Gas and Electric Company.

17 And I guess I just had two items to offer for your
18 consideration. One is, of course, there is cleanup language
19 that's currently in play for SB 350, so that could certainly
20 affect some of the things that you've drafted so far for
21 this regulation. So, later this month, perhaps there will
22 be a little bit more certainty and you can reflect anything
23 that might happen in the draft regulation when it's issued
24 again.

25 And then, we also do appreciate the work that

1 you've been doing to monitor the CPUC proceedings and how
2 they are implementing SB 350 for the investor-owned
3 utilities. And we certainly support that the rules be, you
4 know, the same for everyone and that we work to be
5 consistent across the state so that everyone is implementing
6 the same renewables portfolio standard program.

7 Thank you.

8 MS. CHISHOLM: Thank you.

9 Sarah?

10 MS. TAHERI: I can barely reach and you've got me
11 already. (Laughter.)

12 Sarah Taheri with SCPA.

13 Just a quick procedural question kind of
14 piggybacking on Valerie's note. Is it possible to get an
15 extension on the comment deadline for this? I know at least
16 a few in the room have committed to submitting, you know,
17 written comments and working through some issues with
18 staff. To the extent we could get an extension, I think
19 that would be helpful.

20 MS. CHISHOLM: I see a thumbs up in the back of
21 the room.

22 Yes, we are certainly open to that and I'll talk
23 to my management about it and we'll put something together
24 on -- and you'll get it via LISTSERV, if we do extend.

25 MS. TAHERI: Thank you. Appreciate it.

1 MR. WESTERFIELD: Bill Westerfield with SMUD. I
2 wanted to return to this IRP language that Tim was talking
3 about and so forth, and maybe I came in a little bit late -
4 this might have been covered in the original presentation,
5 but when I look at the noticing requirements in the --
6 paragraph 4 and when it talks about them being satisfied for
7 an IRP "intended" to replace a POU's procurement plan, as I
8 look -- as I think back on the existing language, I recall
9 that there is a noticing requirement whenever a procurement
10 plan is updated.

11 And I think the intention -- kind of mindset in
12 this -- implied in this is whether we really intended for
13 some aspect of being updated or not and that may not be
14 exactly the same kind of trigger that triggers noticing in
15 current regulation for any changes to the procurement plan.

16 So, I think that word "intended" might sort of add
17 an unnecessary element to satisfy if we're going to say,
18 indeed, the noticing requirements have been met. So, I
19 might bring that to your attention.

20 MS. HERRERA: So, Bill, how would we satisfy? If
21 there's a requirement now for a POU, when they update their
22 procurement plan, to notify the Energy Commission and
23 provide certain information on its website, and now the POU
24 is no longer under an obligation to adopt a separate
25 procurement plan because they are under an obligation to

1 adopt now an IRP, which would include this RPS procurement
2 plan, how is that noticing requirements satisfied that
3 exists right now - or is it? Would you say that the POU is
4 no longer under an obligation to provide that information to
5 the Energy Commission or -- excuse me, make it available to
6 the public?

7 MR. WESTERFIELD: Well, my comment is not to
8 change any of the noticing requirements that may exist
9 now. I'm just trying to get at maybe what you all are
10 trying to do, which was to reduce sort of duplicative
11 noticing requirements.

12 MR. HERRERA: Right.

13 MR. WESTERFIELD: And I just wanted to -- I was
14 suggesting that right now the obligation is there is a
15 notice whenever there is an update to the plan, and the use
16 of the word "intended" here kind of adds another element to
17 the noticing requirement that could be confusing. Do we
18 really have to notice because we intended it to be a change
19 or not?

20 MR. HERRERA: Okay.

21 MR. WESTERFIELD: So, I'm just going to point that
22 out.

23 It does seem to me -- I have another question, as
24 well. It seems to me that when you -- if we already
25 incorporate our procurement plan into the IRP, when those

1 IRPs are filed, I think the most -- the path of least
2 resistance (laughter), I think, for most POUs will be simply
3 to take the existing procurement plan and stick it into the
4 IRP and say, here, it's done.

5 Is the intention of this regulation to provide for
6 a rewriting of the procurement plans that might separately
7 exist and that we have to make it as a way to really replace
8 that obligation in the regulations? I'm not quite sure how
9 you envision the incorporation of the procurement plan into
10 the IRP.

11 MR. HERRERA: So, I don't think we've thought
12 about it much at this point other than to note that the
13 statute now provides this obligation to the larger POUs to
14 do this, right?

15 MR. WESTERFIELD: Mm-hmm.

16 MR. HERRERA: And then, it raises the question: is
17 there still a noticing requirement on the part of that POU
18 with respect to that element of the IRP dealing with the RPS
19 procurement plan? We're not sure what the answer is. If
20 you think the answer is no, those larger POUs are now
21 excused from the noticing requirement for the RPS
22 procurement plan because that has now been incorporated as
23 part of the IRP, you know, let us know.

24 It just seems like the other side might say, well,
25 wait a minute. At one point the POU did have to provide us

1 that information and now they're not. So, it still makes
2 sense for them to continue to do that, at least with respect
3 to the RPS portion of their IRP.

4 MR. WESTERFIELD: And I think we'll think about
5 that. But I think your general inclination or instinct on
6 this to promote efficiency in terms certainly of noticing,
7 but maybe I'll take it a step further in terms of
8 streamlining these plans - that's a good instinct because we
9 had a procurement plan obligation that existed years ago and
10 now we have a new broader type of plan that I think tries to
11 get at the same thing.

12 So, to the extent that we could begin to collapse
13 those obligations into something that does the same thing
14 without bringing in artifacts or legacies that now don't
15 really make that much sense to the extent to which you all
16 can interpret the law to bring that kind of, you know,
17 sensibility into it, I think, would be a good thing.

18 MS. CHISHOLM: All right. Thank you.

19 Any other comments in the room?

20 MS. CHUA: Pjoy Chua, Los Angeles Department of
21 Water and Power. We'd like to thank you for the work that
22 you've done on this pre-rulemaking draft, especially the
23 clarifications. One in particular is the update that you
24 had done in section 1240 and I would like to echo Sarah's
25 request, if we could have an extension on the commenting

1 period.

2 MS. CHISHOLM: All right. Thank you and -- thank
3 you.

4 Susie, do you need another moment? (Laughter.)
5 (No audible response.)

6 MS. CHISHOLM: Do you have any comments? We're on
7 the open comment period and we kind of skipped the large
8 hydro exemption.

9 Oh, but Gabe has something first. Sorry.

10 MR. HERRERA: Just a follow-up for Pjoy.

11 Pjoy, so how much additional time? Several
12 weeks? I don't know if -- but Sarah, did you speak to that
13 point?

14 MS. TAHERI: In terms of the extension?

15 MR. HERRERA: Yeah, the extension on the comments.

16 MS. TAHERI: Yeah, I think a couple of weeks would
17 be great.

18 MS. CHUA: Two weeks.

19 MS. CHISHOLM: All right. Any other comments on
20 anything -- what's happening?

21 MS. DANIELS: WebEx.

22 MS. CHISHOLM: Oh, WebEx. Anyone on WebEx?

23 (No audible response.)

24 MS. CHISHOLM: Anyone on NCPA? This is your last
25 chance.

1 MS. BERLIN: I think we're covered.

2 MS. CHISHOLM: Okay.

3 MS. BERLIN: Thank you.

4 MS. CHISHOLM: They say we covered everything, so
5 that's good.

6 All right. Last chance. Oh, we're going to open
7 the phones lines for a little bit of fun.

8 Please mute your phone if you're on the phone and
9 you don't have a comment. Any comments or questions?

10 (No audible response.)

11 MS. CHISHOLM: Hearing none, let's go ahead and
12 mute.

13 All right. Sorry. Last slide.

14 Here is my contact info. Please feel free to call
15 or email me if you have any questions or would like to meet
16 with staff about the proposed regulations. I'm always happy
17 to help in any way I can. I will leave this up in case
18 anyone needs to memorize it quickly.

19 With that, we will close the workshop for today.
20 Thank you so much for joining us and for providing such a
21 good comprehensive conversation. Thanks.

22 (Whereupon, the California Energy Commission
23 Staff Workshop adjourned at 2:43 p.m.)

24 --oOo--

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CERTIFICATE OF REPORTER

I, REBECCA HUDSON, an Electronic Reporter and Transcriber, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Staff Workshop on Proposed Pre-Rulemaking Amendments; and that I thereafter transcribed the audio recording.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of August, 2016.


REBECCA HUDSON