

**DOCKETED**

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CALIFORNIA ENERGY COMMISSION

LEAD COMMISSIONER WORKSHOP

In the Matter of: ) Docket No. 16-RPS-03  
 )  
 )  
 Modifications to Renewables )  
 Portfolio Standards (RPS) )  
 Regulations for Local )  
 Publicly Owned Electric )  
 Utilities )  
 \_\_\_\_\_ )

CALIFORNIA ENERGY COMMISSION (CEC)

CALIFORNIA ENERGY COMMISSION

REMOTE

MONDAY, JUNE 8, 2020

10:03 A.M.

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229 Napa Street, Rodeo, California 94572 (510) 224-4476

## APPEARANCES

CEC COMMISSIONERS (AND COMMISSIONER ADVISORS) PRESENT:

Karen Douglas, Lead Commissioner  
Kourtney Vaccaro Advisor to Commissioner Douglas  
Eli Harland, Advisor to Commissioner Douglas

CEC STAFF PRESENT:*Renewable Energy Division:*

Katharine Larson  
Armand Angulo  
Gina Barkalow, Office Manager  
Natalie Lee, Deputy Director  
Malachi Weng-Gutierrez  
Gregory Chin  
Elisabeth de Jong

*Office of the Chief Counsel:*

Gabriel Herrera  
Mona Badie

STAKEHOLDER Q&A:

Justin Wynne, Braun Legal for California Municipal Utilities  
Association (CMUA)  
David Siao, Roseville Electric Utility  
Steve Uhler, Member of the public  
Scott Tomashefsky, Northern California Power Agency  
Scott Hirashima, Los Angeles Department of Water & Power (LADWP)  
Tony Goncalves, Sacramento Municipal Utility District (SMUD)

PUBLIC COMMENT:

Scott Tomashefsky, Northern California Power Agency  
James Hendry, San Francisco Public Utilities Commission  
Steve Uhler

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## P R O C E E D I N G S

1  
2 JUNE 8, 2020

10:03 A.M.

3 MS. LARSON: Should we go ahead and get started now?  
4 Commissioner Douglas, are you ready?

5 COMMISSIONER DOUGLAS: Yes, let's go ahead and get  
6 started.

7 MS. LARSON: Thank you.

8 COMMISSIONER DOUGLAS: Why don't you kick us off and  
9 then I'll start with my opening comments.

10 MS. LARSON: Great. So thank you all for attending  
11 our Lead Commissioner Workshop on Modifications to the RPS  
12 Enforcement Regulations for Local Publicly Owned Electric  
13 Utilities. My name is Katharine Larson and I'm the staff  
14 lead for the update to the RPS regulations.

15 I'll go over some brief housekeeping and then we'll  
16 have opening remarks from Commissioner Douglas. So this  
17 workshop is being conducted entirely remotely via Zoom. This  
18 means that we're in separate locations and communicating only  
19 through electronic means. We're meeting in this fashion  
20 consistent with Executive Orders N-25-20 and N-29-20 and the  
21 recommendations from the California Department of Public  
22 Health to encourage physical distancing to slow the spread of  
23 COVID-19.

24 This is actually our team's first remote-only  
25 workshop, as well as our first workshop using Zoom. We've

1 got multiple staff members on the line to help address any  
2 technical issues that may arise, but please bear with us if  
3 there are any hiccups.

4           This meeting is being recorded as well as transcribed  
5 by a court reporter. Everyone will be muted during the  
6 presentation and after the conclusion, will have an  
7 opportunity for clarifying questions, and then we'll take  
8 public comments. To ask a clarifying question or make a  
9 public comment, please use the raise hand feature in your  
10 Zoom application to be called on to speak. When you speak,  
11 please provide your name and affiliation. If you've called  
12 in by phone, you'll need to dial Star 9 to raise your hand  
13 and Star 6 to unmute yourself, and spell your name for the  
14 court reporter.

15           There's also a Q&A window in the Zoom application  
16 which you can use to type your questions. If you want to  
17 provide public comment, but are unable to raise your hand in  
18 the Zoom application, then during the public comment portion  
19 of the workshop, you can type your comment into the Q&A  
20 window and we'll read it out loud, but we request you label  
21 it as a public comment. We'll go over all these instructions  
22 again during the time for clarifying questions and public  
23 comment, and please remember to stay muted until you've been  
24 called on to speak.

25           We also have a chat function available for logistics

1 or tech questions, but please don't use the chat function for  
2 Q&A about the content in the workshop or to make public  
3 comment. And our written comments must be submitted by  
4 Monday, June 22<sup>nd</sup>, the last day of the public comment period  
5 on the express terms -- 45-day public comment period on the  
6 express terms. We greatly appreciate comments submitted  
7 early and we encourage you to submit comments through our  
8 e-commenting system, especially when the majority of us are  
9 teleworking.

10 And now I will turn it back to Commissioner Douglas  
11 if she'd like to make any opening remarks.

12 COMMISSIONER DOUGLAS: Thank you, Katharine.

13 And good morning, everybody. Welcome to the Lead  
14 Commissioner Workshop on the Energy Commission's Proposed  
15 Modifications to the Renewables Portfolio Standard  
16 Enforcement Regulations for Local Publicly Owned Electric  
17 Utilities. The Notice of Proposed Action and other  
18 rulemaking documents were posted by the Energy Commission's  
19 staff on May 7<sup>th</sup>, 2020.

20 The purpose of today's workshop is to present the  
21 proposed modifications to the regulations, answer clarifying  
22 questions, and receive public comment. Regarding public  
23 comments, thank you to those who were proactive in preparing  
24 comments at the workshop today, and we look forward to the  
25 extent we can to unpacking all of those comments today.

1           During our last pre-rulemaking workshop, we  
2 emphasized that we would be moving toward having these  
3 regulations in place by the end of Compliance Period 3, which  
4 closes at the end of 2020. To that end, I'm glad to say that  
5 staff is currently on track, even with the challenges brought  
6 on by the coronavirus to bring the final regulations for  
7 consideration by the Energy Commission at the August 2020  
8 business meeting. We're appreciative, and I'm appreciative,  
9 of everyone's engagement to get us to this point.

10           I would especially like to recognize the Energy  
11 Commission staff who've worked hard to get the proposed  
12 regulations to where they are today, and to get this workshop  
13 on calendar. And from the Renewable Energy Division,  
14 Katharine Larson, Gina Barkalow, Gregory Chin, Armand Angulo,  
15 and Natalie Lee. And from the Chief Counsel's office, Gabe  
16 Herrera and Mona Badie.

17           At this point, I'll turn this over to Katharine for  
18 the remainder of the workshop.

19           Thanks again.

20           MS. LARSON: Thank you, Commissioner Douglas.

21           So for our staff presentation today and the rest of  
22 the workshop, I'll begin with a very brief overview of the  
23 CEC's RPS Enforcement Regulations, as well as the changes  
24 required by recent legislation. Then I'll introduce the  
25 proposed regulations and describe in the presentation how



1 they differ from the pre-rulemaking draft that was posted  
2 last December and presented at our January workshop.

3 I'll then outline the next steps, and immediately  
4 following the presentation will pause for clarifying  
5 technical or process questions. And after that, we'll open  
6 up for public comment. Please do hold any general statements  
7 regarding the rulemaking package until public comment.

8 The first RPS was signed into law in 2002 for retail  
9 sales of electricity and targeted 20 percent of retail sales  
10 from eligible renewable energy resources by 2017, and then  
11 accelerated to 20 percent by 2010. And in this first RPS  
12 through 2010, the law required POUs to establish and enforce  
13 their own RPS that recognized the intent of the legislature  
14 to encourage renewable resources, while also taking into  
15 consideration the effect of the standard on rates,  
16 reliability, and financial resources, and develop  
17 environmental improvement.

18 In 2011, SB X 1-2, or Senate Bill X 1-2, established  
19 new RPS procurement requirements, including a target of 33  
20 percent by 2020 for retail sellers and POUs alike. In  
21 bringing POUs into the statewide RPS Program, SB X 1-2  
22 acknowledged the authority of each POU's local governing  
23 board, but also required the CEC to adopt RPS enforcement  
24 regulations. The CEC's regulations specify how the CEC will  
25 assess a POU's procurement actions and determine whether they

1 meet the RPS requirements. The regulations also specify a  
2 process by which CEC may issue a notice of violation and  
3 refer noncompliance to the California Air Resources Board, or  
4 ARB.

5           The CEC's regulations were adopted pursuant to Public  
6 Utilities Code Section 399.30 in June of 2013 and took effect  
7 that October. The CEC subsequently modified the regulations  
8 with the amended regulations taking effect in April of 2016.  
9 The RPS Enforcement Regulations are specific to POUs. The  
10 California Public Utilities Commission establishes RPS rules  
11 for retail electricity sellers, as well as oversee their  
12 compliance and enforcement.

13           Since the CEC last amended regulations, these  
14 regulations, four pieces of legislation have modified RPS  
15 requirements applicable to POUs. These bills affect multiple  
16 aspects of the RPS program, including procurement  
17 requirements, optional compliance measures, reporting  
18 requirements, and special exemptions and exclusions. I'll  
19 discuss our proposed implementation of these statutory  
20 changes in the following slides.

21           So as Commissioner Douglas mentioned, Notice of  
22 Proposed Action on our proposed regulations was published in  
23 the California Regulatory Notice Register on May 8<sup>th</sup> to  
24 initiate the formal rulemaking process and start the 45-day  
25 public comment period. The broad objective of this

1 rulemaking is to implement the statutory changes mentioned on  
2 the prior slide in a manner that supports the achievement of  
3 the underlining benefits to the RPS and is consistent with  
4 statutes, consistent to the extent possible and appropriate  
5 with the implementation of parallel requirements for retail  
6 sellers, and that it reasonably applies to all POU's.

7 Proposed regulations, which I'll also refer to as  
8 express terms, and additional rulemaking documents were  
9 posted on the CEC's website and sent to our LISTSERVs. The  
10 proposed regulations are the product of extensive pre-  
11 rulemaking activities, including the publication of initial  
12 draft regulations that were specific to SB 350 in 2016, and  
13 an implementation proposal, draft regulations, and a key  
14 topics guide posted at the end of last year.

15 The proposed express terms are largely consistent  
16 with the December 2019 pre-rulemaking draft. The proposed  
17 RPS procurement targets for compliance periods after 2020 are  
18 the same as those proposed in the December draft, as are most  
19 of the proposed changes to excess procurement and optional  
20 compliance measures. Two sections, 3205, which is  
21 Procurement Plans and Enforcement Programs; and 1240, which  
22 is RPS Enforcement, had no additional changes to those  
23 proposed in the December draft.

24 While the overall implementation of the long-term  
25 procurement requirements, or the LTRs, as an independent

1 procurement requirement is the same as in the December 2019  
2 draft, there are multiple revisions in the express terms to  
3 requirements for what actually qualifies long-term  
4 procurement. The proposed express terms also include changes  
5 or clarifications to several requirements for exemptions and  
6 for reporting.

7           Throughout the express terms, there are formatting  
8 changes, such as numbering and consistent reference,  
9 references for different sections, that have been updated  
10 since the December 2019 draft, and a few corrected typos as  
11 well.

12           I'll next go through each section of the regulations  
13 for which we've proposed updates in this rulemaking and  
14 summarize the substantive changes since the December 2019  
15 draft. We did receive three sets of comments prior to the  
16 workshop, which included the four numbered proposals, as well  
17 as requests for clarifications and comments on the proposed  
18 implementation. Where possible, I'll seek to speak to those  
19 comments in my presentation.

20           Section 3201 specifies definitions for various terms  
21 used in regulations. The changes proposed in the rulemaking  
22 include new and revised definitions related to implementation  
23 of the long-term procurement requirements. These include  
24 contract start date, end date, and execution date, ownership  
25 agreement and ownership agreement execution date, long-term

1 procurement requirement, and RPS procurement requirements.  
2 The changes also include minor updates or clarifications of  
3 several existing definitions, compliance period, compliance  
4 report, portfolio balance requirement, retail sales, retire,  
5 and RPS procurement target.

6           The definition section in the express terms is  
7 largely consistent with the December 2019 draft. Since  
8 December, we've added one new definition, Joint Powers  
9 Agency, for entity is formed pursuant to the Joint Exercise  
10 of Powers Act, to address applicability of aspect of a long-  
11 term procurement requirement, ownership requirements for  
12 large hydroelectric generation exemptions, and eligibility  
13 for a special retail sales calculation.

14           We also further clarified the definition of  
15 compliance period to ensure that it's clearly inclusive of  
16 compliance periods established by law through 2030, and the  
17 subsequent multiyear compliance period established by the  
18 CEC. We also clarified both the definitions of contract  
19 execution date and ownership execution date to better  
20 identify the action of execution.

21           We received a preworkshop comment asking for  
22 clarification of the difference between the use of retail  
23 sales, which is currently a defined term, and total retail  
24 sales, which isn't defined, but is also used in the existing  
25 and proposed regulations. Because the two terms are used

1 interchangeably in the current draft, staff is considering  
2 using only retail sales for clarity because it is a defined  
3 term, although depending on usage, it may also be appropriate  
4 to use other language in the regulations, such as the sum of  
5 all retail sales. But we invite further comments on the use  
6 of these terms.

7           Section 3202 specifies eligibility requirements for  
8 different types of qualifying electricity products and how  
9 each type of electricity product is counted for purpose of  
10 RPS procurement requirements -- requirements. The proposed  
11 changes in the rulemaking address how each type of  
12 electricity product relates to the long-term procurement  
13 requirements. The proposed changes also make minor  
14 clarifications to existing provisions regarding the effective  
15 amendments to PCC 0 contracts, as well as to an existing REC  
16 eligibility requirement. Since December, there were no  
17 substantive changes to this section. The only additional  
18 changes were regarding reference format and consistency.

19           Section 3204 describes the RPS procurement  
20 requirements and special exemptions or adjustments to those  
21 requirements. This section covers a lot of material, so I'm  
22 going to go through each subdivision separately.

23           The proposed changes in the rulemaking to subdivision  
24 (a), RPS procurement targets, include implementing the new  
25 compliance period through 2030 that were established by

1 statute. The proposed changes also implement procurement  
2 targets for these new compliance periods that are generally  
3 based on linearly increasing annual soft targets, except for  
4 a slight variation in 2025 and 2026 to address statutory  
5 intent language. The proposed changes also implement three-  
6 year compliance periods beginning on and after January 1<sup>st</sup>,  
7 2031, and clarify the variables used in equations to  
8 calculate the procurement target. There were no substantive  
9 changes to this section since the December 2019 draft, only  
10 reference updates for consistency and to reflect updated  
11 numbering to various sections.

12 The new subdivision (e) -- excuse me, (b) proposed in  
13 the rulemaking is the location for all special exemptions and  
14 adjustments to RPS procurement requirements. Subdivision (b)  
15 in the existing regulations was retained and renumbered to  
16 subdivision (e). There are quite a few exemptions to cover  
17 in this slide, so please hang on.

18 The proposed changes in the rulemaking to subdivision  
19 (b) include moving existing exemptions to this location and  
20 implementing statutory changes regarding exemptions from all  
21 four bills. The changes from these bills include a new  
22 partial procurement target exemption for large hydro  
23 generation. This exemption was created by SB 350 and  
24 subsequently revised by SB 100.

25 A revision by SB 1393 and then subsequent repeal by

1 SB 100 of the existing procurement target exemption for hydro  
2 generation that was originally established by SB 591. A  
3 retail sales reduction established by SB 350 for qualifying  
4 generations from voluntary green pricing or shared renewable  
5 generation program. A partial procurement target exemption  
6 also established by SB 350 for unavoidable procurement of  
7 coal-fired generation under limited circumstances. A partial  
8 procurement target exemption established by SB 1110 for  
9 qualifying generation from gas-fired power plants without  
10 outstanding public indebtedness, again under limited  
11 circumstances. And finally, a revision from SB 350 to  
12 eligibility criteria for an exemption to the portfolio  
13 balance requirement, or PBR, for a POU not connected to a  
14 California balancing authority that meets specified criteria.  
15 In addition to implementing these statutory changes, the  
16 proposed changes in the rulemaking also clarify how certain  
17 exemptions relate to the new long-term procurement  
18 requirement.

19           The express terms in subdivision (b) are generally  
20 consistent with the December 2019 draft, but there were  
21 several substantive changes. First, in a large hydro  
22 exemption created by SB 350 and modified by SB 100, we  
23 clarified that qualifying generation must actually be applied  
24 to the POU's retail sales, this is based on a fair reading of  
25 a statutory provision that limits the exemption to the



1 portion of retail sales unsatisfied by the qualifying  
2 generation.

3 We also removed proposed requirements that were  
4 effectively duplicative and/or requirements specifying the  
5 treatment of renewals or extensions of WAPA contracts for the  
6 period between 2016 and 2018, as CEC staff isn't aware of any  
7 WAPA contracts expiring during that period.

8 As in the December 2019 draft, the proposed express  
9 terms specify a sunset date of this large hydro exemption as  
10 the end of December 2030. We refuse preworkshop comments  
11 that this implementation fails to apply the rules of  
12 statutory interpretation and prevents POUs with long-term  
13 contracts for qualifying hydro from realizing the intended  
14 benefits of the exemption. While we understand parties'  
15 concerns, the question of a sunset date appears to be a  
16 statutory, rather than regulatory issue, as the compliance  
17 periods for which the exemption is effective are specified in  
18 statute and planned in 2030.

19 We invite further clarification of the preworkshop  
20 comment to make sure that we understand the argument that  
21 Public Utilities Code Section 399.30(b) encompassed all  
22 compliance periods when the exemption was first adopted. As  
23 we understand that prior to SB 350, Section 399.30(c) did  
24 require the CEC to establish future compliance periods after  
25 those specified in statute. With all that said, though, our

1 requirements for developing regulations must meet the  
2 requirements in review by the Office of Administrative Law  
3 and we may not be able to further refine the proposed  
4 language.

5           Moving on. For the Retail Sales Reduction for Green  
6 Pricing and Shared Renewable Generation Programs, we changed  
7 the term subtract to exclude in the express terms to better  
8 align the statute and based on comments received in January.  
9 We also revised the definition of monetized for this retail  
10 sales reduction to clarify that it includes earning values  
11 from the retired RECs, such as through Low Carbon Fuel  
12 Standard, or LCFS credits, under current rules for the LCFS  
13 Program. This clarification is based on the requirement of  
14 Public Utilities Code Section 399.30(c)(4), which  
15 specifically requires any RECs associated with electricity  
16 credited to a participating customer be retired on behalf of  
17 the participating customer and shall not be further sold,  
18 transferred, or otherwise monetized for any purpose.

19           In developing the proposed express terms, staff  
20 coordinated with the LCFS team at ARB regarding the  
21 prohibition on further monetization of RECs for this retail  
22 sales production and determined that use of (indiscernible)  
23 green pricing program RECs to substantiate LCFS credits would  
24 constitute further monetization of the RECs.

25           Also related to this provision, we received a comment

1 stating that a community solar program under the Title 24  
2 energy standard would be precluded from the retail sales  
3 reduction. At this time, staff doesn't anticipate changes  
4 based on this comment.

5 A little more on this retail sales reduction in the  
6 express terms. We added the definition of reasonable  
7 proximity to mean location within a California balancing  
8 authority area because that definition provides roughly --  
9 provides equal treatment for POUs, regardless of the size or  
10 characteristics of their service territory, and roughly  
11 comparable treatment with IOUs that have larger service  
12 territories and a similar retail sales reduction. It also  
13 provides flexibility to POU governing boards in assessing  
14 what resources are cost effective, and it may provide  
15 locational benefits to California ratepayers.

16 The last changes, new changes, for this retail sales  
17 reductions were to add limited exceptions regarding the  
18 requirement that electricity products meet the criteria of  
19 PCC 1, and that POUs seek to procure from resources located  
20 in a California balancing authority for those POUs not part  
21 of the California balancing authority themselves. These  
22 changes, which will allow those POUs to take advantage of the  
23 retail sales reduction without needing to procure electricity  
24 products located in or scheduled into a different balancing  
25 authority area than their own.

1           Prewriteshop comments requested clarification of  
2 initial statement of reasons, or ISOR, language explaining  
3 the requirement -- explaining this requirement for POUs that  
4 are not part of the California balancing authority to seek to  
5 procure resources in their own balancing authority area. The  
6 intent of the express terms is to allow these POUs to procure  
7 outside their balancing authority area if the POU is unable  
8 to procure to the extent possible within that area the same  
9 standard that's applied for the paralleled requirement for  
10 POUs that are part of California balancing authority areas.  
11 We do anticipate addressing this clarification in the final  
12 statement of reasons.

13           Moving on from the retail sales reduction for the  
14 unavoidable procurement of coal-fired generation, we revised  
15 the definition of qualifying coal-fired generation to better  
16 align with statute.

17           For the qualifying gas-fired generation exemption, we  
18 added a provision addressing the statutory requirement that  
19 additional procurement of RPS eligible or zero-carbon  
20 resources resulted in the power plant operating out or below  
21 a 20 percent capacity factor. This -- it changes so all  
22 requirements for this exemption can be found in one location  
23 in the RPS regulations. We also defined resource shuffling  
24 for purposes of the exemption based on a cap and trade  
25 definition.

1           The last change to the gas-fired generation exemption  
2 was to clarify staff's interpretation of the requirement that  
3 a qualifying power plant must be operating at or below 20  
4 percent capacity factor on an annual average during a  
5 compliance period to mean this condition must be satisfied  
6 each year of the compliance period. This interpretation is  
7 to reconcile the fact that the average capacity is typically  
8 calculated annually, that the procurement target exemption is  
9 structured on a compliance period basis rather than on an  
10 annual basement -- basis, excuse me -- of an annual  
11 adjustment as is seen in other RPS exemptions.

12           We received some preworkshop comments that this  
13 interpretation creates an extra obligation that isn't  
14 consistent with statutory language. We encourage further  
15 comments on how best to reconcile the structure of the  
16 procurement target exemptions as a compliance period  
17 adjustment with annually evaluated criteria.

18           And last, the December 2019 draft sought to clarify  
19 how the long-term procurement requirement applied to a POU  
20 that meets the criteria of Public Utilities Code 399.30(j).  
21 The proposed express terms now clarify that if a POU has all  
22 its retail sales satisfied by qualifying hydro generation,  
23 it'll be deemed in compliance with the LTR, as well as the  
24 other procurement requirements. The clarification of how the  
25 LTR is calculated when a POU has retail sales unmet by

1 qualifying generation is now addressed in a new paragraph in  
2 Section 3204(d) in the regulations.

3           So Section 3204(c) specifies portfolio balance  
4 requirements, or the PBR. The proposed changes in the  
5 rulemaking include clarifying the calculations of the PCC 3  
6 maximum limit and the PCC 1 minimum requirement for  
7 Compliance Period 3 and beyond. The proposed changes are  
8 intended to ensure that the equations clearly address all  
9 possible procurement application scenarios and are easier to  
10 follow. However, the proposed changes to the PCC 1 minimum  
11 requirement calculation also reflects an update to the CEC's  
12 best interpretation of the statutory requirement based on  
13 implementation experience.

14           This clarification would more clearly establish an  
15 order of operations in assessing RPS compliance as follows.  
16 First, we calculate the PCC 3 maximum limit based on the  
17 lesser of the RPS procurement target or total number of RECs  
18 applied to the target. Next, we evaluate compliance with the  
19 RPS procurement after any PCC 3 RECs, in excess of the  
20 maximum limit the POUs sought to apply, were subtracted. And  
21 finally, we calculate the PCC 1 minimum based on the lesser  
22 of the procurement target or the total number of RECs that  
23 are applied and counted toward the target after the  
24 subtraction, if any, disallowed PCC 3 RECs.

25           In many cases, this revised calculation is no

1 different than the current calculations, but it would affect  
2 POU's that apply both fewer RECs than the RPS procurement  
3 target, as well as retire and attempt to apply more PCC 3  
4 RECs than the allowable maximum limit.

5           There are actually no substantive changes to this  
6 section since the December 2019 draft, but it does look quite  
7 different because it was restructured to better identify the  
8 relationship between the PCC 1 requirement and PCC 3 maximum  
9 limit and to better accommodate the proposed clarification  
10 for PCC 1 in Compliance Period 3 and going forward.

11           So subdivision (d) is another new addition in Section  
12 3204 in the rulemaking to implement the long-term procurement  
13 requirement. This is another long slide that covers a lot of  
14 changes, so please try to bear with me.

15           The proposed additions within this subdivision  
16 implement the LTR as a third RPS procurement requirement with  
17 compliance assessed independently of the procurement target  
18 and the PBR. The proposed additions also include a  
19 definition for long-term procurement and specify how various  
20 changes to agreements for long-term procurement could affect  
21 the long-term status of electricity products procured to the  
22 agreement. The proposed express terms are similar to the  
23 overall implementation proposed in the December 2019 draft,  
24 but reflect multiple revisions or clarifications.

25           The first change relative to December -- to the

1 December 2019 draft was to add a provision clarifying how the  
2 LTR will be calculated for POU's that have a lower RPS  
3 procurement target due to a special exemption or adjustment.  
4 In those cases, the 65 percent will be assessed on the  
5 procurement target after exemptions or adjustments have been  
6 applied.

7           Next, we'll discuss changes for the proposed  
8 definition of long-term procurement since the December 2019  
9 draft. The express terms clarify the proposed definition of  
10 long-term procurement requires a ten-year procurement  
11 commitment from one or more RPS-certified facilities. In  
12 other words, a ten-year contract between a POU and a third-  
13 party supplier would count as long-term only if the POU  
14 submits information showing that the third party has a ten-  
15 year contract with or ownership of the facilities that are  
16 supplying the electricity products.

17           This revision is necessary to interpret and make  
18 specific the requirement that Public Utilities Code 399.13(b)  
19 for a contracting scenario in which a ten-year agreement  
20 between a POU and third party provides no long-term  
21 commitment for any RPS-certified facility and the electricity  
22 product for source to portfolio of short-term agreements.  
23 This scenario wasn't contemplated in the December 2019 draft  
24 and the revision is necessary to effectively implement the  
25 long-term procurement requirement in a manner that supports a



1 key purpose and function of the requirement, which we  
2 understand stakeholders generally agree upon, which is to  
3 provide planning stability for the development and repowering  
4 of RPS-certified facilities.

5           However, preworkshop comments opposed the proposed  
6 clarification that long-term contracts must provide a ten-  
7 year procurement commitment from RPS-certified facilities, if  
8 an argument that its interpretation is inconsistent with  
9 Public Utilities Code 399.13(b), inconsistent with the CPUC's  
10 implementation to retail seller, and will add administrative  
11 complexity. Comments also stated that POUs may not have  
12 access to upstream(indiscernible) contract of third parties.

13           The initial statement of reasons presents CEC staff  
14 to rationale for the proposed clarification of the definition  
15 of long-term procurement as it applies to POUs. The proposed  
16 implementation is not in conflict with the statutory language  
17 of Public Utilities Code 399.13(b) or the consistent  
18 requirement that applies to POUs through Section 399.30.

19 However, we do invite further comments from stakeholders on  
20 how long-term contracts and third-party suppliers that do not  
21 provide a ten-year commitment to RPS facilities may support  
22 the development and repowering of RPS-eligible resources.

23           CEC staff's continuing to coordinate with the CPUC  
24 RPS team regarding implementation of requirements for long-  
25 term procurement in order to identify differences and

1 similarities in proposed implementation. CEC staff  
2 anticipates adjusting and clarifying differences as needed in  
3 the final statement of reasons.

4           In addition to this change to the definition of long-  
5 term procurement, the express terms also clarify that if a  
6 POU contracts with a third party other than an RPS facility,  
7 or the developer of an RPS facility, the POU's procurement  
8 agreement with the third party must be at least ten years in  
9 duration, unless that third party is another POU, a joint  
10 powers agency on behalf of the POU, or a retail seller. And  
11 the resale or packaging of the original contract with the  
12 RPS-certified facility doesn't affect the underlying  
13 procurement terms of that contract.

14           This change is intended to provide some additional  
15 flexibility to POU governing boards in determining how best  
16 to comply with the LTR given practical long-term contracting  
17 challenges based on many POU's, and to the somewhat stricter  
18 clarification that long-term contracts must demonstrate at  
19 least the ten-year procurement commitment to RPS-certified  
20 facilities.

21           Prewrite comments requested clarification of what  
22 constitutes a pro -- continuous procurement commitment under  
23 different scenarios. In the express terms, continuous  
24 procurement commitment refers to the contract or ownership  
25 agreement to procure electricity products. Staff believes

1 this intent is sufficiently clear in the proposed express  
2 terms but will consider suggestions for further clarity.

3           Based on this meeting, or understanding, failure to  
4 deliver due to a mechanical issue, drought, or other  
5 interruption wouldn't negate the underlying ten-year contract  
6 or ownership agreement. In addition, as currently drafted,  
7 the express terms would allow long-term contracts to change  
8 the procurement quantity or allocation over time if that  
9 change was specified in the contract. Preworkshop comments  
10 also asked for clarification of how a continuous commitment  
11 would be evaluated for long-term PCC 3 contracts in which  
12 RECs were delivered in batches annually or on a compliance  
13 period basis. We are reviewing this for potential additional  
14 clarification, but we certainly request you provide your --  
15 (indiscernible) stakeholders provide your input, further input  
16 and comments.

17           Preworkshop comments also requested clarification of  
18 what types of amendments would alter a contract such that it  
19 no longer provides a commitment to procure electricity  
20 products for at least ten years. The intent in the express  
21 terms is to address termination and amendments that shorten  
22 the duration of a long-term contract. We'll consider whether  
23 clarification is necessary, but we also request input on  
24 whether there are other types of amendments to consider that  
25 would change the long-term procurement commitment of a long-

1 term contract.

2           So moving on from the long-term contracts duration  
3 requirements, the express terms now define efficiency  
4 improvements for purposes of this requirement as improvement,  
5 but allow an RPS-certified facility to make more efficient  
6 use of its existing RPS eligible resource or fuel, improve  
7 the efficiency of the facility equipment or operations,  
8 and/or allow for more efficient use of the facility's  
9 generation.

10           The express terms also clarify that procurement  
11 resulting from efficiency improvement to long-term contracts  
12 are considered part of the original contract. The express  
13 terms also clarify that procurement to amendments that result  
14 in an increase in nameplate capacity, except as part of an  
15 efficiency improvement, or amendments that increase the  
16 quantity of procurement, based on contractual changes only,  
17 will be considered as separate agreements, unless they are  
18 specified in the original long-term contract.

19           Prewriteshop comments requested clarification of what  
20 specifying an expansion would look like in a contract, what  
21 level of details needed, and how electricity products may be  
22 attributed to an original project versus an expansion. We're  
23 reviewing the potential for additional clarifications here,  
24 but we encourage further comments on this topic and, as well  
25 as suggest some language.

1           Preworkshop comments also requested addition clarity  
2 on how to specify resource substitutions in a long-term  
3 contract, such that the substitutions would be considered  
4 part of the underlying long-term contract and as third party  
5 restrictions apply. The express terms allow substitutions to  
6 count as part of the underlying long-term contracts only as  
7 explicitly specified in the original contract with the  
8 resource identified. However, we encourage further comments  
9 from stakeholders on this topic. And we'd also like to  
10 clarify that third party as is used in the ISOR is -- refers  
11 to entities other than POUs, retail sellers, joint powers  
12 agencies, as well as the RPS facilities themselves.

13           Finally, the express terms clarify that contracting  
14 just to jointly negotiated contracts, that reallocate the  
15 quantity of electricity products among contract parties are  
16 considered part of the original contracts and that  
17 assignments of long-term contracts entered into by a retail  
18 seller or a POU will be considered long-term only if the  
19 assignment maintains the original commitment to procure the  
20 same type and quantity of electricity products from the RPS  
21 facilities for the remainder of the contract.

22           Preworkshop comments requested clarification on what  
23 constitutes jointly negotiated contracts. The intent of this  
24 language was to address procurement agreements entered into  
25 by multiple parties as a result of joint negotiations, even

1 if the individual procurement agreements don't reference the  
2 other parties. However, it may be up to the POU to show that  
3 the agreement was -- or contract was the outcome of joint  
4 negotiations. For example, a jointly held solicitation alone  
5 may not be sufficient if three POUs held a solicitation, but  
6 only one of them entered into an agreement. We also welcome  
7 further input and comments on suggested clarifications that  
8 would be helpful.

9           Section 3205 specifies criteria for a POU's  
10 Procurement Plan and Enforcement Program. The proposed  
11 changes in the rulemaking included updates implementing  
12 statutory changes from SB 1393 that removes certain noticing  
13 requirements. Since December, there were no changes to the  
14 proposed regulatory language.

15           Section 3206 specifies optional compliance measures  
16 that may be adopted by POU, including measures to accrue  
17 excess procurement for use in a future compliance period,  
18 delay timely compliance under specified circumstances,  
19 establish cost limitations on RPS procurement expenditures,  
20 and to reduce the R -- the PCC 1 component of the PBR.

21           The proposed changes in the rulemaking address  
22 statutory changes to excess procurement, delay of timely  
23 compliance, and cost limitations, as well as certain  
24 clarifications of existing requirements, specifically in the  
25 proposed changes to excess procurement, implement new

1 eligibility requirements beginning January 2021, and propose  
2 a process by which a POU may elect for voluntary early  
3 compliance with the LTR to use the new excess procurement  
4 requirements beginning this compliance period.

5           The proposed changes also clarify that excess  
6 procurement may be accrued only if all RPS procurement  
7 requirements are met. They also update the equations used to  
8 calculate excess procurement to ensure that the equations  
9 address all procurement scenarios and they're easy to follow.

10           The proposed changes to cost limitations and delay of  
11 timely compliance address statutory changes and make limited  
12 clarifications to existing requirements for these measures.  
13 There were also limited changes to the PBR reduction measure.

14           There have been a few substantive changes since the  
15 December 2019 draft. First, regarding excess procurement, we  
16 extended the deadline for applying prior banked PCC 2 excess  
17 procurement, which is no longer eligible under statutory  
18 changes through the end of Compliance Period 5. Second, we  
19 clarified that a POU's finding that unanticipated curtailment  
20 delayed as timely compliance must include information showing  
21 that it did not result in an increase in greenhouse gas  
22 emissions.

23           We received a preworkshop comment asking how a POU  
24 would demonstrate curtailment, such as curtailment of a  
25 resource in another utility territory due to a public safety

1 power shutoff, didn't result in an increase in greenhouse gas  
2 emissions. As written, the express terms leave this  
3 determination to a POU governing board, but the underlining  
4 analyses to be part of a POU finding and supporting  
5 materials. We invite further comments on this implementation  
6 from stakeholders.

7           Finally, we clarified that a POU delaying timely  
8 compliance due to an unanticipated increase in retail sales  
9 because of transportation electrification, may rely on the  
10 best forecast information available to the POU, and we also  
11 identified several possible examples of forecast that a POU  
12 may rely upon.

13           We received a preworkshop comment requesting  
14 clarification of the meaning of best and most recently  
15 available information and how to demonstrate that one  
16 forecast is better than another. The comment also suggested  
17 that the source of information be deemed best and most  
18 recently available, once approved by a POU governing board.

19           So it's similar to unanticipated curtailment. As  
20 written, we intended the express terms as to let this  
21 determination be made by a POU governing board. But we  
22 invite additional comments on the suggestion that the  
23 governing board's determination should be formally adopted to  
24 satisfy this requirement.

25           Section 3207 specifies reporting requirements for



1 POU's. The proposed changes in the rulemaking include  
2 clarification to existing annual reporting requirements and  
3 updates addressing the long-term procurement requirement.  
4 The changes also include a revised compliance report process  
5 in which POU's make procurement application decisions after  
6 the CEC has completed draft verification of the REC's retired.

7 In addition, the proposed changes include updated  
8 reporting requirements for optional compliance measures and  
9 exemptions to address statutory changes and needed  
10 clarifications. Finally, the proposed changes specify that  
11 missing reports are subject to the same process as incorrect  
12 or incomplete reports.

13 The express terms are generally consistent with the  
14 December 2019 drafts but there are a few changes. Regarding  
15 annual reporting, we received a fair amount of feedback at  
16 the January workshop questioning the need for information on  
17 electricity procured for other end uses and excluded from  
18 retail sales. This information is necessary for the CEC's  
19 verification process to be able to confirm self-reported  
20 retail sales with other sources, like EIA data or other  
21 program data for which the definition of retail sales may  
22 differ from the RPS definition.

23 Accurate and verifiable information on a POU's retail  
24 sales and exclusions is necessary to ensure that the POU's RPS  
25 compliance obligations have been correctly determined. So in

1 the express terms, we had thought to better identify the type  
2 of information to be reported. We did receive preworkshop  
3 comments that requiring information on upstream contracts as  
4 part of annual reporting on the LTR is an overreach and the  
5 only legitimate inquiry into upstream contracts is to  
6 determine whether the resource is RPS eligible. The CEC's  
7 staff has presented the basis for this requirement in the  
8 ISOR based on the implementation of the LTR.

9 We also received a preworkshop comment regarding  
10 guidance for amending annual reports that have already been  
11 submitted based on a different interpretation of statute. So  
12 the CEC staff anticipated this will affect a relatively small  
13 number of POU's and will plan to work with them directly as  
14 needed. However, at this time we don't anticipate changes in  
15 the regulations regarding this guidance.

16 Regarding compliance reporting, the express terms now  
17 better identify the information that a POU must include in  
18 compliance reports which is, in effect, the amount of  
19 generation retired, applied, and what the POU intends to bank  
20 as excess, broken down by each portfolio content category and  
21 long-term or short-term classification.

22 In addition, based on comments submitted, we changed  
23 the deadline for the compliance report to 90 days after the  
24 CEC sends draft verification results. And we specified that  
25 POU's may request extensions following the process identified

1 in the RPS eligibility guidebook. We also updated reporting  
2 requirements for the SB 350 large hydro exemption in effect  
3 from 2016 to 2018 and the green pricing program retail sales  
4 reduction. These updates were to conform with the changes  
5 and proposed implementation of these provisions that I  
6 mentioned earlier. And finally, we made minor additional  
7 revisions clarifying how the process for incorrect or  
8 incomplete reports also apply to missing reports.

9 Section 3208 specifies reasons that a complaint may  
10 be issued for failure to comply with an RPS requirement and  
11 that any complaint will follow the process specified in  
12 Section 1240. The proposed changes in the rulemaking add  
13 failure to comply with the long-term procurement requirement  
14 as a reason for issuing a complaint unless excused by delay  
15 or timely compliance or cost limitation optional compliance  
16 measured.

17 The proposed changes also update existing provisions  
18 specifying failure to comply with the PBR for consistency  
19 with the existing requirements in Section 3206. The express  
20 terms are consistent with the December 2019 draft. But we  
21 did add a subdivision clarifying that for purposes of the CEC  
22 complaint process and referral of noncompliance to the ARB,  
23 deficits in the RPS procurement target, PBR, and LTR will all  
24 be considered equally. While it is ultimately the ARB's role  
25 to assess and collect penalties for noncompliance, the CEC's

1 intent is to get the same treatment to a deficit in any RPS  
2 procurement requirement.

3 Section 1240 specifies the process by which the CEC  
4 may file a complaint against a POU for noncompliance and  
5 provides information regarding issuance of a notice of  
6 violation. The proposed changes in the rulemaking update a  
7 reference for statute and specifies the CEC will send a  
8 notice of violation to the POU in addition to the ARB. And  
9 since December, there weren't any changes to the proposed  
10 regulatory language.

11 So our next steps. Public comments on the express  
12 terms and the other materials in the rulemaking package are  
13 due on June 22<sup>nd</sup>, which is the last day of the 45-day comment  
14 period on the express terms pursuant to the Administrative  
15 Procedures Act, or APA. We anticipate holding the APA public  
16 hearing and bringing the proposed regulations to the  
17 Commission for adoption at the August 12<sup>th</sup> CEC business  
18 meeting. If we make further modifications to the proposed  
19 regulations based on the comments we receive in this comment  
20 period, it's possible this hearing date could be delayed.

21 When the CEC considers adoption of the proposed  
22 regulations, it will also consider the potential  
23 environmental impact associated with the proposed regulations  
24 in accordance with CEQA. And may at that time consider  
25 adoption of a negative declaration if it's appropriate based

1 on our review analysis.

2 We intend to submit the final rulemaking package to  
3 the Office of Administrative Law by the end of the third  
4 quarter this year and request an urgency effective date once  
5 the regulations are approved, anticipated in the December  
6 2020, which is prior to the close of Compliance Period 3. On  
7 January 1<sup>st</sup>, 2021, Compliance Period 4 begins and the long-  
8 term procurement requirement, new procurement targets, and  
9 new excess procurement requirements will take effect.

10 July 1<sup>st</sup>, 2021 is the annual reporting deadline for  
11 2020 and POUs will report based on the updated guidelines and  
12 the regulations. And following the new process and the  
13 proposed regulations, the compliance report for Compliance  
14 Period 3 will be due 90 days after a POU received draft  
15 verification results from the CEC.

16 The rulemaking documents can be obtained online in  
17 the Rulemaking Docket Log or on the CEC's webpage for the  
18 rulemaking proceeding. You could also contact me if you have  
19 questions about how to access these documents.

20 This slide has my contact info so for questions about  
21 the rulemaking or if you need help accessing rulemaking  
22 documents, please contact me or Gina Barkalow who is a backup  
23 contact for the rulemaking. For general RPS questions,  
24 please contact RPSTrack@Energy.ca.gov and a member of the RPS  
25 team will assist you.

1           So, as I mentioned before, written comments on the  
2 proposed regulations and supporting materials in the  
3 rulemaking package are due on June 22<sup>nd</sup>. So we encourage you  
4 to use our e-commenting system. You can find instructions  
5 for submitting written comments in the Notice of Proposed  
6 Action as well as in the updated notice for this workshop.

7           And this concludes my presentation on the express  
8 terms and next steps.

9           So we'll now open the floor for clarifying technical  
10 or process questions. If you would like to address broader  
11 policy issues, please do hold that for the public comment.

12           To ask a question, please use the raise hand feature  
13 in Zoom and we'll call on you to speak. If you've called in  
14 by phone, you'll need to dial Star 9 to raise your hand, and  
15 Star 6 to unmute yourself -- mute yourself. Please provide  
16 your name and affiliation when we call on you. And if you've  
17 called in by phone, then please also provide your name for  
18 the court reporter, and spell it as well. You can also type  
19 your question into the Q&A window, and then one of us will  
20 read it out loud.

21           So I will now turn it over to Gina Barkalow to  
22 facilitate the Q&A.

23           Gina, are you there? Are you able to speak?

24           MS. BARKALOW: Hello.

25           MS. LARSON: Hi, I can hear you now.

1 MS. BARKALOW: Yes. Okay. Sorry about that.

2 Yes. Hi. So, this is Gina. I'm going to begin with  
3 the attendees who have raised their hands. You can see the  
4 attendees by clicking on the participant box, which if you  
5 move your arrow to the bottom of the slide it highlights the  
6 participant box, as well as the chat, and the Q&A box. So we  
7 will begin with those.

8 Again, when I call your name, then I will unmute you.  
9 There is a possibility you may need to also unmute yourself.  
10 And state your affiliation before you begin your question.  
11 Okay.

12 Katharine, can you hear me okay?

13 MS. LARSON: Yes, I can. Thank you, Gina.

14 MS. BARKALOW: Okay. All right. Well are we ready,  
15 Commissioner? Katharine, ready to get started?

16 COMMISSIONER DOUGLAS: Yes, let's get going.

17 MS. BARKALOW: Okay. We will begin with Ren Zhang.

18 Ren, please state your affiliation, and you may ask  
19 your question.

20 You may have to hit Star 6 to unmute yourself. Or  
21 you may have to go to the bottom left-hand side of the  
22 presentation and there's a little phone symbol and unmute  
23 yourself there, possibly.

24 I have allowed you to unmute, so you should be able  
25 to unmute yourself, Ren.

1           Okay. Ren, perhaps you could send us a message in  
2 the chat box if you're having a problem. I notice that your  
3 hand was raised from the very beginning, so if you're unable,  
4 I think maybe I'll move on to the next person and I'll try to  
5 come back to you. But please let us know if you're having  
6 any problems with the chat box, please. Okay.

7           All right. Justin Wynne, I'm going to allow you to  
8 talk.

9           MR. WYNNE: This is Justin. Can you hear me?

10          MS. BARKALOW: Yes. Thank you.

11          MS. LARSON: Yeah.

12          MR. WYNNE: Perfect. So Justin Wynne for the  
13 California Municipal Utilities Association.

14                 So first, I just wanted to thank staff and the  
15 Commission for all the work that went into these post  
16 regulations. I think there are a number of issues that we  
17 raised in the pre-rulemaking draft, and I think that we see  
18 that you put a lot of effort into addressing a number of  
19 those issues and so we greatly appreciate that.

20                 And so CMUA had submitted a list of questions. I  
21 think you provided a good response to a number of them. I  
22 just wanted to go through and ask a few more clarifying  
23 questions just to make sure I understood and maybe have some  
24 follow-up questions based off of that.

25                 Well just as an introductory comment on the -- the



1 level of detail that I think is appropriate for the  
2 regulations. I think I understand that the regulations can't  
3 be bogged down with tons of examples, but particularly  
4 considering the long-term procurement requirement, these are  
5 contracts of 10, 25 years. And so the financial commitment  
6 associated with those is substantial. And so there's a real  
7 need for some regulatory certainty.

8           And so I think that it doesn't necessarily have to be  
9 in the regulations themselves, but it could even be in the  
10 FSOR. But for a number of these example and questions, I  
11 think that some level of clarification that we can point back  
12 to when we're executing contracts would be very valuable.

13           The other part of this is that it's 2020, communities  
14 have been ramping up to this for a long time and so a number  
15 of contracts have already been executed without the benefit  
16 of these regulations in place. And so as you're thinking  
17 about how rigid and strict these requirements are, I think  
18 it's important to keep in mind that you have, you know,  
19 almost nine years of long-term contracts being executed that  
20 include a lot of standard provisions. And so it's -- it's  
21 important to look at how language in existing contracts is  
22 structured in making sure that you're not preventing  
23 something that's a useful, or normal contracting provision.

24           So the first question I had, just to make sure I  
25 understand it, when you were talking about the definition of

1 continuous for the long-term procurement requirement, there  
2 was the -- I think I understood the discussion about droughts  
3 and mechanical failures, but could you just repeat one more  
4 time for Bucket 3 contracts? If -- if there would be a  
5 strict -- a restriction where if it's delivered once every  
6 compliance period, that you get everything dumped into your  
7 WREGIS Account, does that still qualify as continuous?

8 MS. LARSON: So that's actually one that we are still  
9 reviewing the best way to clarify that. And I think we need  
10 to discuss a little bit more as a team. Certainly understand  
11 the need to better clarify how PPC 3 RECs will be addressed  
12 in a long-term contract and how that requirement will apply.  
13 But I think at this time we'd -- we'd like to hear more from  
14 you all and some other commenters on -- suggested thoughts  
15 for those clarifications.

16 So I think it's a really good question that you  
17 brought up in the preworkshop comments and I didn't -- I  
18 spoke to the fact that I think we'll need to further consider  
19 clarifications now that we've -- when we've had more time to  
20 discuss.

21 MR. WYNNE: Thank you. So the next question I  
22 think -- I think you clarified this, but I think it'd just be  
23 helpful to make sure I understand it. For the definition, or  
24 to understand what a jointly negotiated contract is, I think  
25 what you said was that if -- if there was say a joint

1 solicitation and then all of the parties executed contracts,  
2 even if they don't reference each other that can still be  
3 jointly negotiated.

4 I think you -- you gave the example where say one of  
5 the parties doesn't actually negotiate a contract or doesn't  
6 actually execute. I think I understand that, but -- but if  
7 there's a joint solicitation, the parties work together, but  
8 they have three separate contracts, that can still qualify  
9 under jointly negotiated.

10 MS. LARSON: Yeah. That was what I was speaking to  
11 in the present- in the slide. But I was mentioning that it  
12 may not always be completely clear, just from a -- submitting  
13 a joint solicitation itself. Because you could have a  
14 scenario in which maybe there is a joint solicitation, but  
15 not all members of the solicitation actually enter into a  
16 project, maybe only one does. And so that -- that wouldn't  
17 maybe be a jointly negotiated contract if only one POU  
18 actually engages in negotiations and execute the contracts.

19 Does that make sense?

20 MR. WYNNE: Yeah. And I think this is an area where  
21 moving forward with this language, I imagine that it'll be  
22 commonplace to just actually have this express language in  
23 there. But you -- the question would be looking backwards  
24 for projects that have already gone through this process,  
25 what do they need to show? And I -- but I understand what

1 you're saying that if the contract isn't executed by one of  
2 the parties, they wouldn't be able to come back five years  
3 later and then join into this joint negotiation just because  
4 they've been a part of a solicitation. I think -- I  
5 understand that.

6 MS. LARSON: Yeah. Okay.

7 MR. WYNNE: The next question. Under specified  
8 requirements for a capacity increase, I think that's -- this  
9 is an area where I would have concerns because if you look at  
10 just normal contract language, I don't think it's that  
11 uncommon where if a increase in the capacities expected in  
12 the future, there may actually be very limited reference to  
13 that in the contract. It may just say that there'll be good  
14 faith negotiations in the future.

15 And so this would be one where they -- the contracts  
16 that have been executed didn't have the benefit of knowing  
17 what the interpretation potentially would be. And so if  
18 there was a very strict requirement said you name the  
19 location, the size, and all these -- all these other details,  
20 I think that that may restrict the ability of somebody's  
21 expansions to occur, it would severely devalue the benefit of  
22 it.

23 And so when you're -- it wasn't clear to me, and I  
24 think you said this is something you're looking for more  
25 comments on, but it wasn't clear to me what the level of

1 detail you're looking for, for specified.

2 MS. LARSON: Yeah. So I did say that we're -- we  
3 need to further discuss this and would welcome more comments  
4 on this matter. I think -- on some level -- I think  
5 actually, I mean real-world examples that you could provide,  
6 perhaps in your comments on what -- what actually is in  
7 existing contracts, what type of language is in existing  
8 contracts would be helpful for us to see in your comments.  
9 But I think the idea of, sort of fundamentally, is that we  
10 want -- an expansion should be -- get sufficiently considered  
11 if it's expected, or sufficiently defined if it's expected,  
12 actually expected as part of a long-term contract.

13 And so we'd need to further consider what, you know,  
14 that might exactly look like. So I don't have an answer for  
15 you now, but that's something we're certainly looking in to.  
16 And then any -- any like, real specific examples of contract  
17 language that you could provide, or the type -- the  
18 information that's actually provided in long-term contracts  
19 for expansions now, that would be helpful for us to consider.

20 MR. WYNNE: Okay. Thank you. And the -- my next  
21 question is on specified for substitution. So I thought what  
22 I heard you say was that for that to not be treated as a new  
23 agreement, the actual resource would need to be specified.  
24 And it wouldn't be, and I think we had raised the comment, is  
25 it the ability to substitute, or is the actual resource that

1 would need to be specified? And I thought I heard you say  
2 it's the resource.

3 MS. LARSON: So I said the resource, but I also said  
4 that we're -- it's still an area of discussion. And so  
5 please continue to address that in your comments as well.  
6 And for everyone, I would ask that in comments. That's still  
7 an area that we appreciate the need to clarify and further  
8 discuss.

9 MR. WYNNE: Okay. And then, and it wasn't clear to  
10 me. I thought you said that the -- and we'd raised the  
11 question about whether the -- the third-party requirement  
12 that you had -- had in the different section about the  
13 portfolio contracts where the underlying resources would need  
14 to be ten years. Are you asserting that that applies to this  
15 such that if there was a substitute resource, so say you  
16 needed six months because there was an extended outage, you  
17 would only be able to use a resource where that third party  
18 also had a ten-year contract with that substitute resource?

19 MS. LARSON: So I think in principal that would align  
20 with our -- our fundamental interpretation of the  
21 long-term procurement requirement and the purpose of the  
22 requirement which is, again, to provide a continuous  
23 long-term commitment to specific facilities. And so I think,  
24 and I guess I'm saying a fair amount of the same thing, but  
25 these are all really good questions that we felt were raised

1 in the pre-rulemaking comments. And we've started to discuss  
2 but, you know, agree that we still need to further before  
3 coming out with any clarifications.

4 And so I think, again, additional comments on this  
5 subject, but especially keeping in mind what we see with the  
6 current interpretation of the long-term procurement  
7 requirement and its key function and purpose and how  
8 different resource substitutions for -- with or without the  
9 third-party restrictions to support that requirement is  
10 really a key area that we appreciate seeing in comments.

11 And again, to the extent you have examples of what  
12 actual contract language might look like, that would be  
13 helpful for us as well in determining how best to clarify.

14 MR. WYNNE: And then, thank you. And so my last  
15 question was just on the optional compliance mechanism where  
16 there is a delay time to compliance based off curtailment,  
17 and we'd raised the question about what sort of analysis you  
18 need to show to show that there's not a GHG increase.

19 And I believe it's something we talked about in some  
20 of the earlier workshops, and so just to clarify, your  
21 interpretation is you have to show that the curtailment event  
22 did not result in an increase in greenhouse gas emissions.  
23 And it's not the granting of the waiver that you would have  
24 to show doesn't result in an increase in greenhouse gas  
25 emissions?

1 MS. LARSON: Yes. Yes.

2 MR. WYNNE: And this is one where it's challenging to  
3 think of all of the different analysis that would have to go  
4 into this because, I mean things like imports into the system  
5 and the effect of the curtailment event on the power that's  
6 being imported and the relative greenhouse gas emissions  
7 difference, intensity between out of state versus in state,  
8 the dropping of load during the, you know, and the GHG  
9 associated with the load that's lost. Do you need to look at  
10 historical baselines?

11 It seems like a very complicated analysis. And so  
12 it -- it's one that seems challenging to not provide at least  
13 some guidance on. And I think -- I think it would be  
14 helpful. And I don't know that it needs to be in the  
15 regulations but I think that given how complicated an issue  
16 it is, I think it's something where we would appreciate some  
17 more discussion about what the Energy Commission would have  
18 in mind for what a POU you would show in that demonstration.

19 MS. LARSON: Yeah. So, I think as the express terms  
20 are written, we would leave it to -- that would leave the  
21 determination to a POU's governing board, including maybe  
22 analyses they decided to use in the data they have available.

23 But I think continuing to follow-up on the -- in  
24 comments and we can consider additional clarification, but I  
25 think in some ways it doesn't seem -- it's not that



1 dissimilar to the -- the requirement for unanticipated  
2 increase in retail sales due to transportation  
3 electrification where a POU deciding what the -- what the  
4 best forecast to use and their own method for attributing  
5 retail sales to transportation electrification. That is also  
6 left in the POU's governing board as well. They have the  
7 ability to determine what analysis is appropriate. And so I  
8 think there is some similarity there. And so perhaps --  
9 perhaps considering both of those in comments might be  
10 helpful.

11 MR. WYNNE: So those are my clarifying questions. I  
12 really appreciate you responding.

13 And as far as just the workshop, it would be helpful  
14 if there are things where you are looking for more feedback  
15 because CMUA filed these comments but obviously there was a  
16 lot of input from specific POUs. And so individual POUs will  
17 have responses, and NCPA and SCPPA all have responses. So I  
18 mean, there -- there may be additional points made by other  
19 POUs, but it would be helpful if you're looking for a little  
20 bit of a response on some of the issues that were raised, and  
21 we haven't addressed it, if you would raise that so we know  
22 that's something that you're looking for comment on other  
23 than what you've already raised. I think that would be  
24 helpful.

25 MS. LARSON: Okay. Great. We will keep that in

1 mind.

2 MR. WYNNE: Thank you very much.

3 MS. LARSON: Okay. Thanks, Justin.

4 MS. BARKALOW: Okay, great. The next person is David  
5 Siao. David, feel free to ask your question. And state your  
6 affiliation, please.

7 MR. SIAO: Hi, Gina. Can you hear me?

8 MS. BARKALOW: Yes, I can. Thanks.

9 MR. SIAO: Oh, excellent. Hope you're doing well.  
10 And hello Katharine, hope you're doing well as well.

11 Let's see. So as Gina mentioned, my name is David  
12 Siao. I'm an analyst for Roseville Electric, POU just to the  
13 north of Sacramento. So we'd like to say that we support the  
14 State's climate change goals and expect to comply with all  
15 applicable regulations.

16 But first of all, before I go into my comments, I'd  
17 also like to thank staff for all of the help and  
18 communication they've provided because they've been very  
19 accommodating and willing to listen to Roseville's concerns,  
20 even when staff doesn't necessarily agree. So again, I  
21 appreciate that.

22 MS. LARSON: I'm sorry, David. Just to quickly  
23 interrupt you and my apology if I'm jumping the gun, but it  
24 sounded like you were saying that you had comments to make.  
25 We do have a public comments session following this, but

1 right now we're doing the Q&A for clarifying questions. So  
2 certainly if you have clarifying questions, feel free to ask.  
3 But I just wanted to mention that we do have a public  
4 comments session following this Q&A.

5 MR. SIAO: Sure. Thank you, Katharine. And these  
6 will be sort of clarifying questions. It's going to be  
7 slightly long because, you know, as Justin alluded to, we  
8 have some specific contracts that would be impacted by how  
9 these regulations are interpreted.

10 So I would just say that, you know, we had signed two  
11 contracts several years ago in accordance with the  
12 regulations that were in place at the time. The first one is  
13 a contract that we have with Powerex, which accounts for  
14 about 17 percent of our -- meeting our RPS obligation. The  
15 other one is with Avangrid, which accounts for about 53  
16 percent of our RPS obligation. 28 percent is Bucket 1, 15  
17 percent would be Bucket 2, and 10 percent would be Bucket 3.

18 So I just wanted to speak to these specific contracts  
19 and ask for clarifications that would affect them. Because  
20 depending on how the regulations are clarified or  
21 interpreted, Roseville could be close to out of compliance,  
22 out of compliance, or ridiculously out of compliance. What  
23 this would mean is that Roseville would have to either break  
24 the contract with these developers, eat the cost of lost REC  
25 values, or basically be out of compliance, which I'm sure is

1 not the intent of the regulatory changes.

2           So there is four points that I wanted to seek  
3 clarification on. And I'll just dive into them right now.  
4 The first one is not so much a clarification, but just sort  
5 of setting the stage. As part of the regulations, it's  
6 pretty clear that the counterparties, third parties must  
7 either own the resources or have them under long-term  
8 contracts. So I've spoken with Powerex and they believe that  
9 about 10 percent, which would effectively be 2 percent of our  
10 compliance are short-term. So, you know, that's 2 percent  
11 that is against us at this point.

12           As for the other major resources they have, which are  
13 wind resources, they believe that their mother corporation,  
14 or parent corporation owns them, but they're not sure if they  
15 can count that as ownership or a long-term contract based on  
16 their corporate structure. So it's something they've been  
17 looking at for a couple weeks and it's something that may or  
18 may not --

19           MS. LEE: David, I'm sorry.

20           MR. SAIO: Uh-huh.

21           MS. LEE: I'm sorry. This is Natalie Lee. I'm the  
22 deputy for Renewable Energy.

23           In a public meeting of this nature, it's really not  
24 appropriate for us to speak to a specific contract.

25           MR. SAIO: Sure.

1 MS. LEE: If you would like to follow up with our  
2 staff with written comments on these very specific agreements  
3 that you have entered into, we of course will address those  
4 comments. But we -- for a public meeting, we really can't  
5 provide a specific answer or, you know, for your specific  
6 contract. If you have a general clarifying question that's  
7 appropriate to the overall regulatory language, we'd be more  
8 than happy to try to address that. Again, it's a -- at this  
9 point in the webinar we're looking for technical  
10 clarifications of the general regulatory provisions in the --

11 MR. SIAO: Okay. Sure. I can -- I can summarize my  
12 clarifying questions, then. Thank you, Natalie.

13 So I guess the first question is whether Bucket 3  
14 RECs, if we have signed a long-term contract, whether they  
15 can count towards a long-term requirement. You know, that's  
16 a 10 percent impact to Roseville.

17 And as just mentioned, we're trying to understand  
18 what the exact definition of continuous would be. That would  
19 impact about 53 percent of our RPS compliance. So that is an  
20 important clarification that we would seek.

21 The other clarification we're seeking is whether  
22 substitute resources, again I think Katharine had mentioned  
23 before that they have to be explicitly mentioned in a  
24 contract. However, you know, my understanding of contracting  
25 is if something is explicitly mentioned, that's just going to

1 be a resource and it's not going to be specifically  
2 designated as a substitute resource because that's a bit  
3 redundant. Substitute resources are generally something  
4 that, you know, would be envisioned in the contract to be  
5 added and clarified later.

6 So I just wanted to say that, you know, depending on  
7 how these ambiguities are clarified, Roseville would be out  
8 of compliance from the very beginning. This would have a  
9 cost impact to our ratepayers, and we could potentially have  
10 to look at breaking our contract with these developers and  
11 seeking new ones.

12 So those are the clarifications I was hoping to seek,  
13 and I appreciate any input that Energy Commission has on  
14 that.

15 MS. LARSON: Yeah. And thanks, David --

16 MS. LEE: Natalie again. May I -- may I just say  
17 generally because we've got a couple of questions that have  
18 come in on our chat feature as well along these lines.

19 So what I'm hearing is that you would like general  
20 clarification as to Bucket 3 resource being eligible for  
21 long-term designation if the contract terms meet the as-  
22 written regulatory language. I think Katharine can speak to  
23 that as a clarifying. In some cases though, we're going to  
24 basically thank you for the comment and seek to address that  
25 in the future and not be able to answer it in some cases

1 today.

2 But Katharine, please go ahead.

3 MS. LARSON: Yeah. So the -- regarding PCC 3  
4 contracts. The intent of these was not to preclude PCC 3  
5 from being -- a long-term PCC 3 contract from counting toward  
6 the LTR. So I think that's something that we were not  
7 intending to do within the express terms or the ISOR, but we  
8 do see that there are some practical questions regarding the  
9 form of PCC 3 contracts and how that might interact with the  
10 definition, footnote, continuous procurement commitment from  
11 an RPS certified facility. And so whether, you know, for a  
12 PCC 3 contract, that might look like something like  
13 continuous vintages for a ten-year period of RECs. That  
14 might be something to consider.

15 So, I guess, we really would appreciate your further  
16 thought on this in comments because we realize that this is  
17 an area where it may be very appropriate to have further  
18 clarification. And so at this time I can't speak to  
19 particular PCC 3 arrangements, if they would count as long-  
20 term or not. But I will say that the, you know, the intent  
21 wasn't to preclude PCC 3 from long-term contracts. But with  
22 that said, in your comments, definitely encourage you to  
23 consider how those arrangements, different arrangements would  
24 support the underlying purpose or function of the long-term  
25 procurement requirement. So.

1 MR. SIAO: Sure. Thank you, Katharine.

2 MS. LARSON: Definitely appreciate the points you've  
3 raised, but we really appreciate more comments as well.

4 MR. SIAO: Sure. And would you also be able to speak  
5 to the clarification on continuous, the definition of  
6 continuous, as well as the treatment of substitute resources?

7 I know you spoke with Justin about this before, but  
8 just to be clear, your -- I think the current position of the  
9 Commission is that substitute resources must be explicitly  
10 named within the contract. Is that correct?

11 MS. LARSON: So I think that was our intent in  
12 express terms and ISOR.

13 MR. SIAO: Okay. And could you speak to the  
14 definition of continuous as well, just I believe, was that up  
15 in the air, or --

16 MS. LARSON: Regarding PCC 3 or just in general?

17 MR. SIAO: Just in general.

18 MS. LARSON: So I think continuous, again, we see  
19 this as referring to the actual agreement, the underlying  
20 agreement, the contract, or ownership agreement to procure on  
21 a continuous basis. And if there are certain interruptions,  
22 then that wouldn't, you know, negate the underlying ten-year  
23 procurement structure.

24 So. So that -- that's our general framework for  
25 looking at continuous but again, as that applies to PCC 3,



1 there might be additional considerations, factual  
2 considerations we need to think about. And so that, that is  
3 where comments -- additional comments would be helpful.

4 MR. SIAO: Okay. Thank you.

5 MS. LARSON: Yeah.

6 MS. BARKALOW: Okay, great. Thank you, David.

7 Okay, the next person with the hand wave is on the  
8 phone, with the last three digits being 385. I'm going to  
9 allow you to talk. You may need to hit Star 6 to unmute  
10 yourself. You should be able to speak now. Thank you.

11 MR. UHLER: This is Steve Uhler, U-h-l-e-r, a retail  
12 energy customer. Are you reading me?

13 MS. BARKALOW: We can hear you.

14 MS. LEE: We hear you.

15 MR. UHLER: Okay. Particularly to my comment related  
16 to 399.30(c)(4) and that you only mentioned the part, it  
17 appears you only mentioned the part about Title 24, 10-115.  
18 You don't seem to have enough dynamic range to handle an  
19 individual who lives in a home of such who never uses more  
20 than the energy produced under that contract that they have,  
21 that covenant they have for that power. So those folks would  
22 -- some of their power would be sold to somebody else who's  
23 not that retail customer. So I think you need to think a  
24 little bit more on that.

25 And also, simply, are you determining that if a

1 utility rebate, the cost of the energy use, they can just  
2 extract it from their retail sales. If you have a situation  
3 you -- kind of the utility drive their retail sales to zero  
4 by taking all of their renewable contracts.

5 MS. LEE: Mr. Uhler. I'm sorry, this is sounding  
6 like comment, not a clarifying question. Is there a  
7 underlying clarification?

8 MR. UHLER: A clarifying question. Okay, clarifying  
9 question. Why is the -- why do you not see any application  
10 of 10-115 to 399.30(c)(4)? And also clarifying question on  
11 399.30(C)(4), the retirement of credits in WREGIS. What  
12 happens when credits are retired in other systems? And your  
13 compliance with 399.21 to have an accounting system that  
14 makes sure that there's no double counting. So can you  
15 clarify that?

16 MS. LEE: Katharine, do you want -- do you want to  
17 address that WREGIS provides service for multiple programs?

18 MS. LARSON: Sure. Right. So we would -- the  
19 credits. The requirement that credits be retired in WREGIS  
20 on behalf of a participating customer, WREGIS does, as  
21 Natalie was mentioning, it provides -- the accounting system  
22 is available and used by multiple programs not just the RPS.  
23 And so a POU would need to demonstrate that it is retired  
24 RECs in WREGIS on behalf of a participating customer in a  
25 different subaccount, not an RPS subaccount that's, again,

1 designated for the benefit of a participating customer. And  
2 submit that as part of its demonstration that the RECs  
3 aren't -- aren't being double counted.

4 So the credits are required to be retired in WREGIS  
5 on behalf of the participating customer. For purposes of  
6 this exemption, if the credits were not retired in WREGIS on  
7 behalf of the participating customer, then they would not be  
8 eligible for this retail sales reduction.

9 MR. UHLER: Okay. So is that -- a customer can go  
10 use an account, look up their account and see exactly what  
11 they contributed?

12 MS. LEE: So Mr. Uhler, you're --

13 MR. UHLER: Could you clarify, could you -- this  
14 is --

15 MS. LEE: An individual does not -- there's --  
16 there's a -- there are requirements and a specific process to  
17 participation in WREGIS. That's for us to describe directly.  
18 I think we have spoken about this previously. But instead of  
19 focusing on WREGIS, I'd like to turn back to the regulations.  
20 We do feel --

21 MR. UHLER: Okay. So then back to the regulations.

22 MS. LEE: Okay. So we're going to --

23 MR. UHLER: Back to the regulations.

24 MS. LEE: So as Katharine has stated, we appreciate  
25 your comments and we will continue to address those through

1 the formal rulemaking process. We don't have any --

2 MR. UHLER: Okay. Monetization --

3 MS. LEE: -- further response right now --

4 MR. UHLER: All right. Clarification on moneti --  
5 monetization value. What is the Energy Commission term as  
6 value? Are they only going to be value to --

7 MS. LEE: Okay. We'll take that into consideration  
8 that that may need additional clarification in the future.  
9 Thank you.

10 MR. UHLER: I'd like -- okay, so you're going to  
11 expand what value is before you consider submitting these for  
12 publication as official regulation?

13 MS. LEE: My commitment to you is that we will review  
14 your comment to identify if additional action is necessary.

15 MR. UHLER: Okay. So am I to take it that you  
16 haven't put much thought into this part of it?

17 MS. LEE: Okay. We're going to be moving on to the  
18 next commenter.

19 MR. UHLER: Um, hang on.

20 MS. LEE: Sir, I'm sorry, but this is not the  
21 appropriate form for this dialog. We're going to move on to  
22 our --

23 MR. UHLER: Where you're at or I can --

24 MS. LEE: -- party.

25 MR. UHLER: -- I can -- I can further comment. Very

1 few of my comments and I've had a number of written comments  
2 prior to meetings have not been answered. And we're getting  
3 closer and closer to when this needs to happen. And --  
4 and -- yeah, so, yeah --

5 MS. LEE: Okay, sir, again --

6 MR. UHLER: -- you're not going to just stop me on  
7 this. Because --

8 MS. LEE: We are going to ask you to hold --

9 MR. UHLER: -- I would like -- I would like to know  
10 why you haven't mentioned --

11 MS. LEE: -- additional comment.

12 MR. UHLER: -- that you're speaking over the top of  
13 me.

14 MS. LEE: Yes, I'm going to ask you to --

15 MR. UHLER: I don't know if it's a technical issue.

16 MS. LEE: -- please close --

17 COMMISSIONER DOUGLAS: This is Commissioner Douglas.

18 We're going to have to move on. These workshops are  
19 an opportunity for you and others to raise clarifying  
20 questions to make comments. And I hope that in the public  
21 comment if you have additional comment and question, please  
22 raise them. This is not a place for staff to do -- conduct  
23 responses on its (indiscernible) --

24 MR. UHLER: Okay.

25 MS. LEE: Thank you.

1 MR. UHLER: Okay. I hear what you're saying. But  
2 you're delaying and reducing ability for a member of the  
3 public to make appropriate comments and getting answers.

4 COMMISSIONER DOUGLAS: This is the clarifying  
5 question portion of the workshop. So part of the  
6 (indiscernible) --

7 MR. UHLER: Yeah, and so clarifying questions are  
8 addressed.

9 The one thing that you should consider is you didn't  
10 publish your presentation. So folks who are only using the  
11 phone, you have a presenter thing on this slide and I can't  
12 see that slide. So you should publish your presentation.  
13 It's a requirement of Bagley-Keene without delay to provide  
14 that.

15 Because I think -- you're a commissioner and this is  
16 a -- yeah, you're the body and you've been presented with  
17 this but the public can't see that.

18 So I understand this is your first rodeo in having  
19 this online stuff, but make sure that you publish your  
20 presentation. I could be far more concise.

21 COMMISSIONER DOUGLAS: Thank you, Mr. Uhler.

22 Now this is on my screen. And for those who were  
23 able to join more than just by phone, they can see it. But  
24 let me just ask staff --

25 MR. UHLER: But if I walk into the room, I would see

1 paper on a table.

2 COMMISSIONER DOUGLAS: Uh-huh.

3 MR. UHLER: That's not being implemented here. I  
4 don't see anything in any order that says you're not to  
5 provide written, distributed written information.

6 So please see that that's presentation is made  
7 available. Reschedule the meeting and allow me to follow it  
8 and have your presenter not say "on this slide". Understand?

9 COMMISSIONER DOUGLAS: Thank you for commenting.

10 MR. UHLER: Understand what I'm saying?

11 COMMISSIONER DOUGLAS: Thank you for your comments.  
12 Go on with the presentation.

13 MR. UHLER: You're in violation of Bagley-Keene  
14 otherwise.

15 MS. LEE: Okay. We are going to move on to our next  
16 commenter now.

17 MS. BARKALOW: Okay. Our next comment -- person is  
18 Scott Tomashefsky.

19 Scott, can you speak?

20 MR. TOMASHEFSKY: Yeah, can you hear me?

21 MS. BARKALOW: Yes.

22 Ms. LARSON: Yes.

23 MR. TOMASHEFSKY: All right. Thank you. And  
24 appreciate the opportunity to talk here and also I'll just --  
25 I'll just flag myself that I'll be -- I want to make some

1 public comment as well. So I'll keep this part short and to  
2 the point.

3 My question, really, for clarification is focused on  
4 3204(b)(11) which is related to the natural gas over  
5 generation issue. And just for clarity for purposes of this  
6 portion of discussion, could you clarify the relationship  
7 between the conclusion you've reached in terms of dealing  
8 with the compliance period of adjustment with the statutory  
9 objective of protecting taxpayers from construction debt?

10 And I only ask that in the sense that there's no --  
11 no connection with that in the description in the initial  
12 statement of reasons on page 35.

13 So that's my question.

14 MS. LARSON: I'm sorry, I only heard -- I lost the  
15 very last bit of what you were saying. You asked to clarify  
16 how we reached the conclusion. Can you repeat that part?  
17 I'm sorry.

18 MR. TOMASHEFSKY: Sure, I'd be happy to do that.

19 What I wanted to see is on -- with the initial  
20 statement of reasons on page 35 as it relates to this  
21 particular section, what I don't -- what I see is you come to  
22 a conclusion with respect to the 20 percent capacity and how  
23 you would calculate it for purposes of a compliance period.  
24 What I don't see in there is any connection between the  
25 policy objections of SB 1110 which basically called to



1 protect taxpayers from construction debt of these power  
2 plants.

3 So that's my clarifying question on that.

4 MS. LARSON: Got it. So I can speak to the fact  
5 this -- where we wrestled with this provision a little bit is  
6 really in where we see the construction of the provision in  
7 the statute and the way that it is -- it is structured of a  
8 compliance period at target adjustment. Unlike the several  
9 other exemptions, hydro exemptions, for instance, that have  
10 reductions on an annual basis rather than on a compliance  
11 period basis.

12 So really in the way that the statute was constructed  
13 around this exemption is a compliance period adjustment and  
14 what's that meant in the past for RPS exemptions.

15 That was really driving our -- our understanding, our  
16 conclusion that this -- trying to reconcile the compliance  
17 period basis in the way that exemption was constructed in  
18 statute with different conditions that need to be satisfied  
19 annually.

20 And so that was the primary driver in coming to this  
21 conclusion but we certainly welcome further comments on -- on  
22 how to connect to the policy. Components are the policy  
23 driver but while also keeping in mind what statute says and  
24 the form of statute, especially compared to the other RPS  
25 exemptions. So.

1 MR. TOMASHEFSKY: Sure. And I appreciate that. And  
2 I'll elaborate a little bit more on that during public  
3 comments so we don't take time over here. And we'll  
4 certainly provide feedback in written comments as well. So  
5 thank you for the opportunity.

6 MR. LARSON: Thank you, Scott.

7 MS. BARKALOW: Thank you, Scott.

8 Okay. The next person we have is Scott Hirashima.

9 Scott, you should be able to speak. You may need to  
10 unmute yourself, Scott.

11 Try again? It's not a great connection.

12 MS. LEE: Scott, it seems --

13 MS. BARKALOW: Try again.

14 MS. LEE: -- we don't have a good connection.

15 Perhaps you could type in your clarifying question for us and  
16 we can read it and respond to it?

17 Gina, can we move on to the next person and we can  
18 always try back to Scott.

19 MS. BARKALOW: Sure. Sure. Okay. So it doesn't  
20 look like there's any more raised hands for the Q&A.

21 We do have one question typed in from Tony Goncalves.  
22 I'll just go ahead and read that.

23 Regarding non-PCC 0, pre-June 2010 resources and  
24 including in the LTR Section 3202(a)(3)(d), the ISOR states  
25 the following: This subparagraph is added to explain how

1 certain qualifying electricity products are included in the  
2 calculation of the long-term procurement requirement  
3 consistent with the explanation in subparagraph (b),  
4 specifying how these electricity products must be included in  
5 the calculation of the portfolio balance requirement.

6 Section 3202(a)(3)(b) states procurement will not be  
7 included in the calculation of the portfolio balance  
8 requirement in Section 3204(c). The ISOR language is  
9 inconsistent with subparagraph (b). Can you clarify the  
10 inconsistency here?

11 MS. LARSON: Sorry, let me just take another look  
12 through this, make sure I'm understanding the correction --  
13 the question correctly.

14 So the Section 3202(a)(3)(b) states the procurement  
15 will not be -- will not be included in the calculation of  
16 portfolio balance requirements in Section 320 -- oh, okay, I  
17 think I understand the question. Sorry, it took a minute to  
18 go through different -- different references.

19 MS. LEE: Not given that whole thing.

20 MS. LARSON: So the -- if I'm understanding  
21 correctly, there's -- the question is asking about the  
22 difference between the pre-June 2010 procurement that doesn't  
23 meet the requirement of PCC 0 and why that is excluded from  
24 the portfolio balance requirement calculation but not  
25 excluded from the long-term procurement requirement

1 calculation.

2           And the difference there is based on the way the  
3 requirements are defined. So the -- the portfolio balance  
4 requirements are specifically defined, calculated around  
5 procurements from contracts that are executed after June 1<sup>st</sup>,  
6 2010. Whereas the long-term procurement requirement is --  
7 there's no qualification for when the contracts were entered  
8 into or the ownership agreements were entered in to. And so  
9 there is a different treatment there because pre-June 2010  
10 contracts don't meet the requirements to count in full would  
11 not be included as part of the portfolio balance requirement  
12 calculation because that calculation is only for post-June  
13 2010 contract. However, pre-June 2010 contracts that don't  
14 meet the requirement to count in full wouldn't be excluded  
15 from the LTR because the LTR doesn't provide for that kind of  
16 exclusion.

17           I hope that addressed the question. Please feel free  
18 to follow up in the Q&A if I misunderstood.

19           MS. BARKALOW: Okay. It looks like Tony has raised  
20 his hand. I'm going to allow you to talk, Tony. Go ahead.

21           MR. GONCALVES: Hi, this is Tony Goncalves with SMUD.  
22 Can you hear me?

23           MS. LARSON: Yeah. Great.

24           MS. BARKALOW: Yes.

25           MR. GONCALVES: Yeah. So the question really was I

1 was looking at the ISOR and it just -- the language in the  
2 ISOR seems to infer that this is -- excluding it is  
3 consistent with the way that Section B excludes the resource  
4 from the PBR. And so just seems like it's maybe was a typo  
5 or maybe I'm misreading that. But that was kind of the  
6 clarification. It just seems to reference B as it's  
7 excluding these resources from the part including these in  
8 the PBR whereas it excludes. So I just wanted to clarify  
9 whether that is -- if I'm misreading the ISOR or whether that  
10 was just an error or something that got (indiscernible) into  
11 the ISOR.

12 MS. LARSON: Okay. Well, thank you for the -- the  
13 question. I think we're going to look a little more  
14 carefully into this but definitely appreciate you raising it  
15 to our attention to make sure we -- we're clear in the ISOR.

16 MR. GONCALVES: All right. Thank you.

17 MS. BARKALOW: Okay. I have another question in the  
18 Q&A box.

19 This is Scott Hirashima, Los Angeles Department of  
20 Water and Power. Would like to get further clarification on  
21 long-term commitment, specifically with regards to the  
22 treatment of certain power purchase agreements that include  
23 options to own or buyout options after so many years. Say a  
24 POU has a long-term PPA with an ownership option at Year 7.  
25 If the POU exercises the ownership option, our assumption is

1 that everything prior to that ownership option would be named  
2 long-term and everything from the buyout point forward would  
3 be considered long-term since ownership is assumed to be  
4 permanent.

5 I wanted to seek clarification that that  
6 interpretation is (indiscernible). Additionally, how would  
7 the ownership be considered in the event the POU stated --  
8 POU stated by to demo the facility -- demolish the facility  
9 after less than ten years of ownership.

10 MS. LARSON: Okay. I think we can -- it's an  
11 interesting scenario that Scott's raised. But I think there  
12 would be no issue at least for the first part of your  
13 question regarding a power purchase agreement with the option  
14 to own after a certain number of years if it (indiscernible)  
15 the ownership agreement, both ownership and the original  
16 long-term contract would meet the requirements of long-term  
17 procurement. Or they meet the definition of long-term  
18 procurement. So I think what you said is correct in your --  
19 your interpretation.

20 Regarding if the ownership was considered in the  
21 event the POU decides to demolish the facility after ten --  
22 less than ten years of ownership. So this is also an  
23 interesting scenario and it may be one for us to think about  
24 a little further. But my -- my initial thought is you're  
25 correct when we -- we do say that ownership is seems to be

1 permanent unless there is something in the ownership  
2 agreement that suggests that it's not permanent or it's not  
3 intended to be permanent.

4           Though I think the idea of that if a POU entered into  
5 an ownership agreement but knew going in or -- and I'm not  
6 sure offhand how that might be reflected in the particular  
7 agreement. But if the POU was planning to end its ownership  
8 through demolishing or simply by transferring ownership to  
9 another party, then in that -- that was reflected in the  
10 contracted agreement that we wouldn't necessarily consider  
11 that, actually we wouldn't consider that to be a permanent  
12 ownership. So we assume that ownership is permanent unless  
13 there's something that indicates otherwise.

14           But appreciate the question, that's an interesting  
15 scenario that you've raised.

16           MS. BARKALOW: Okay. So that concludes the Q&A. And  
17 now we will move on to the public comment portion.

18           MS. DE JONG: Hey, this is Elisabeth.

19           We actually did manage to receive a question from Ren  
20 in the chat box. And if you'd like, I can go ahead and read  
21 that out.

22           MS. BARKALOW: Yeah, go ahead.

23           MS. DE JONG: So this is a clarification on the  
24 exemption on qualifying large hydro generation. There's two  
25 parts.

1           First, what's the definition of qualifying large  
2 hydro generation?

3           And second is, what does it mean by this type of  
4 generation gets exempted?

5           MS. LARSON: So it's a good question. There are  
6 actually a couple of different versions of a large hydro  
7 generation exemption. So there are slightly different  
8 eligibility requirements, depending on the specific exemption  
9 in place for different years.

10           So SB 350 created a large hydro exemption that was  
11 subsequently modified by SB 100. So there are certain  
12 eligibility requirements in place under the SB 350 exemption  
13 for 2016 through 2018 but then changed with the effective  
14 date from SB 100 going forward.

15           So regarding what's actually -- what meets the  
16 definition of qualifying hydro generation I can refer to that  
17 directly in just a moment, but it's based on the statutory  
18 language that defines what qualifying generation is. So the  
19 qualifying large hydroelectric generation meets certain  
20 requirements that's specified in Public Utilities Code  
21 Section 339.30(k)(1) and certain requirements for the  
22 ownership agreement or contracts to which it's procured. So  
23 procured by -- there for an ownership agreement or contract  
24 structures that are allowed.

25           And what the exemption means is it's really -- it's



1 to adjust the soft target, a POU's soft target in a given  
2 year. If they have their -- their qualifying generation  
3 which again is qualifying based on the statutory  
4 requirements. If they receive qualifying generation in  
5 excess of 40 percent of their retail sales, they can reduce  
6 what they would have needed to procure for a given year such  
7 that the combination of their large hydro generation and  
8 their RPS procurement doesn't exceed 100 percent of retail  
9 sales for that year.

10 So for instance, if a POU RPS procurement annual soft  
11 target for a given year was 33 percent and they had 70  
12 percent large hydro generation, they could reduce the amount  
13 of procurement that they would apply toward the RPS target  
14 from that year to 27 percent such that the combination of  
15 the -- the qualifying large hydro generation and the  
16 procurement RPS procurement doesn't exceed 100 percent of  
17 retail sales for that year.

18 And if you have any follow ups, feel free to add them  
19 in the chat.

20 Were there any other questions, Gina?

21 MS. BARKALOW: Oh, sorry. No.

22 So now we're going to move on to the public comments  
23 portion.

24 To make a comment, please raise your hand by dialing  
25 Star 9 and Star 6 to unmute yourself. If you're unable to

1 make a public comment orally, you may type your comment into  
2 the Q&A window and we will read that aloud.

3 Public comments will be limited to three minutes per  
4 speaker. If you have typed in your comment, that limit will  
5 be applied during the reading of your comment.

6 Okay. So we will go ahead and, Scott, I will take  
7 your comment. Are you ready? I'm going to allow you to  
8 speak now.

9 MS. LARSON: Sorry, just to interject. Can everyone  
10 see the countdown timer?

11 MS. BARKALOW: I can.

12 MR. TOMASHEFSKY: Can, if that counts.

13 MS. LARSON: Perfect. Great. Thank you.

14 MR. TOMASHEFSKY: Thanks for putting that up on the  
15 board there. That helps, actually.

16 Just as a general matter, I'll take 15 seconds to  
17 just -- just to express our appreciation for all the work  
18 that staff has done to get us to this particular point. I  
19 know we've got a nearly four-year conversation on this. And  
20 a lot of the things that we've had the greatest concerns  
21 about have been addressed with clarifying questions, of  
22 course. So I think we're much further along than we could  
23 have been.

24 My focus for my comments really on two different  
25 areas here. The first one I'll do shorter since it's tied to

1 what you said in terms of the hydro provision. You had made  
2 the comments earlier that it was your -- it was your  
3 interpretation of the statutory requirements would not allow  
4 you to make changes that would go to apply the logic behind  
5 2030, and that you were sort of hamstrung in that regards.

6 One, I'd like to see that confirmed so that we would  
7 not continue to pursue that particular issue. But putting  
8 that aside, you seem to suggest that there was a need to have  
9 a statutory change to that and I will say that that's  
10 something that we would pursue given that there's a little  
11 bit of time to address that. I'd like to have some knowledge  
12 of that in the final statement of reasons if there's no  
13 change to that. So let me stop at that point.

14 Now getting back to the natural gas provisions in  
15 3204(b)(11). I wanted to provide a little bit more clarity  
16 in the minute and a half I have left here. What we have here  
17 and I know we've had a number of conversations about how you  
18 deal with compliance and the calculation of compliance. And  
19 that of course looks at a -- from a compliance period basis  
20 when you come to that conclusion that you can kind of  
21 reconcile those things over a compliance period basis can do  
22 that.

23 The problem with that conclusion is that this is tied  
24 to public investment in a project that was built with, you  
25 know, to in response to the energy crisis. So it's all tied

1 to debt service. Debt service is something that doesn't have  
2 the benefit of having to be reconciled over a three-year  
3 period. It is an every year problem and concern. So there  
4 isn't an opportunity to say in year one we've had a major  
5 default on debt payments, but we'll catch up over three years  
6 and everything will be fine.

7 This was intended to deal with that type of exact  
8 issue that to the extent that there's a problem that occurs  
9 in year one, there's some sort of financial offset that deals  
10 with it. And the regulation here doesn't address that  
11 particular issue. In fact, it actually doesn't help until  
12 three or four years out. So it's potentially problematic and  
13 it's not consistent with what the legislation said.

14 I will read one thing in here in terms of the fact  
15 sheet that was initiated by Senator Bradford in 2018.  
16 Basically said that SB 1110 is designed to protect taxpayers  
17 from the construction debt of certain power plants built in  
18 response to the energy crisis. This will not do that.

19 What I'll also do is if it's acceptable, the fact  
20 sheet itself is public so I will be happy to add that to the  
21 docket in addition to the comments that we'll make going  
22 forward.

23 MS. BARKALOW: Thank you, Scott.

24 MR. TOMASHEFSKY: So thanks for the three minutes and  
25 ten seconds on that.

1 MS. LARSON: Thank you.

2 MS. BARKALOW: Great. Thank you.

3 Okay. So we're going to move next to the caller with  
4 the last digits 089. You are allowed to talk. Please state  
5 your name and affiliation.

6 MR. HENDRY: Good after -- good morning, this is  
7 James Hendry, H-e-n-d-r-y, with the San Francisco Public  
8 Utilities Commission.

9 Can you hear me okay?

10 MS. BARKALOW: Yes, we can.

11 MS. LARSON: Yes.

12 MR. HENDRY: Great. Thank you very much.

13 I wanted to focus on the interaction between the  
14 green tariff provision and the California Air Resources Board  
15 low carbon fuel standard. And I'm worried that there's going  
16 to be a conflict between the two and it will really  
17 jeopardize the ability of the low carbon fuel standard  
18 program take advantage of green tariff provision.

19 As we know, the California Energy Commission's been  
20 very active in leading Governor Newsom's goal of trying to  
21 get 5 million electric vehicles on the road by 2030 to meet  
22 our AB 32 greenhouse gas reduction goal. And (indiscernible)  
23 the interaction between these two programs, particularly the  
24 requirement that the renewable energy credit cannot be  
25 monetized.

1           Basically we'd preclude the green tariff as an option  
2 to help promote electrical vehicles. The green tariff  
3 provision was added to the Public Utilities Code by Section  
4 SB -- by (indiscernible) SB 350 and this is the same section  
5 added Public Utilities Code Section 740.12 that requires the  
6 Energy Commission in any rulemaking dealing with greenhouse  
7 gas reduction to look at its effect in transportation  
8 electrification.

9           And so the concern that the interaction between two  
10 programs is in 2019. The Air Resources Board significantly  
11 expanded -- its revised its low carbon fuel standard program  
12 and it looked -- tried to have any green tariff as an option  
13 to promote electrical vehicle development. It would give  
14 great incentives for electrical vehicle development, it would  
15 help promote California's Renewables Portfolio Standard  
16 goals. And so now we have the green tariff's definitions  
17 coming out from the Energy Commission which basically say  
18 that if you have green tariff, you can't use it for the LCSF  
19 program.

20           And this was not raised anywhere in the Air Resources  
21 Board rulemaking. It now has the effect of basically  
22 requiring that you have to double retire renewable energy  
23 credits, one to meet the green tariff eligibility. And then  
24 with our second renewable energy credit to meet your CARB low  
25 carbon fuel standard requirements. And I'm afraid that given

1 this double counting, there'll be very low incentive or  
2 economic feasibility for customers to do that.

3 I think this comes down to definition of monetized, I  
4 think it ignores the initial regulation, talked about  
5 benefitting the participating customers. And it's the  
6 customers that's benefiting by participating in low carbon  
7 fuel standard program just as making it as renewable energy  
8 credit, to claim credit for lead certification to monetize  
9 higher rent. Green-e certification for various products. I  
10 think the focus should be on what's benefitting the  
11 participating customer and then the further monetization,  
12 there really is no further monetization of the renewable  
13 energy credit, it's really just recognizing the customers  
14 participating in green tariff program. And we will be  
15 following up with it with staff and in written comments.

16 But we appreciate the consideration with this issue.

17 Thank you.

18 MS. BARKALOW: Thank you. Okay. The next person is  
19 on the phone with the last digits 236. Please state your  
20 name and affiliation. You should be allowed to speak.

21 Looks like you're still muted. Okay, go ahead. The  
22 caller on the phone with the last three numbers 236, you  
23 should be able to speak.

24 Okay. We can't hear you. So maybe send your  
25 comments in the Q&A box. You should be unmuted now.

1           Okay. We're going to move on. The last one we have  
2 with the hand raised is Mr. Steve Uhler. I'm going to allow  
3 you to talk. Okay, Steve, you should be able to speak.

4           MR. UHLER: This is Steve Uhler, U-h-l-e-r.

5           The comment from the PUC on -- in centralizing these  
6 renewable energy credits for being used for anything. I  
7 totally agree the situation would appear that double counting  
8 would have to be required. You don't seem to have a way to  
9 enforce that a customer -- and a customer could be a  
10 homebuilder who wishes to sell a house and comply with Title  
11 24 for the community solar. Can sell their house and claim  
12 that energy and then also the utility then gets to be in turn  
13 claim a reduction in renewable sales for something that  
14 apparently made the Commission figures they're being rebated  
15 because there can -- cannot be a bill payment related to the  
16 energy that's used.

17           You really need to look at this closely. Otherwise,  
18 somebody should just post a sign out there and tell people  
19 claim that you're all renewable. We have utility companies  
20 that claim they raise their rates to buy more renewables.  
21 Where's the line between a renewable program and you simply  
22 you pay for X amount of renewables? How come those credits  
23 are then not handled under 399.30(c)(4)?

24           Basically the way I look at it is, the Commission's  
25 over treating superfluous participation pursuant. There's



1 nothing binding utility customers to comply with RPS. So  
2 utility customer like a stadium can claim that they are  
3 renewably powered even after the utility has claimed it under  
4 399.30(c)(4). They shouldn't be able to do that. There  
5 needs to be these controls. Otherwise there's no incentive.  
6 We just tell everybody hey, don't -- don't involve yourself  
7 in those programs at all and that reduces the amount of money  
8 that we go into renewable.

9           It's already as it stands will reduce money because  
10 people think they're buying a renewable and can claim  
11 everything about it, but they can't claim value after the  
12 utility takes this credit. Not as a procurement but as a  
13 requirement of the RPS in order to reduce their retail sales  
14 if they actually show up on their book as retail sale.

15           So you seriously need to consider how you're looking  
16 at this as far as tracking, the ability to have a customer  
17 comply who participates in one of these can no longer claim  
18 that they have renewable energy because the utility is  
19 claiming it. This removes incentive.

20           So I really want to hear your term of what you  
21 consider value. Because as a person who bought two program  
22 and then to find out that they were used -- not only did I  
23 get -- not get a power content label, but they were used to  
24 comply with RPS. I find this abhorrent that the Energy  
25 Commission completely overlooked the retail customer and the

1 customer who's trying to reduce carbon, particularly in a  
2 carbon desert like Sacramento County which has only 5 percent  
3 renewable.

4 MS. BARKALOW: Mr. Uhler -- Mr. Uhler, your time is  
5 up.

6 MR. UHLER: Okay, thanks. I hope you can get to it.  
7 Bye now.

8 MS. BARKALOW: Okay. Thank you.

9 All right. We do have one question in the question  
10 box. It is from Leslie Bryan, utility analyst from Redding  
11 Electric Utility.

12 Our comment -- our comment addresses the  
13 implementation of SB 1110 and expands on those provided  
14 previously by CMUA and NCPA. We now stress the importance to  
15 our community on implementing the law as intended, evaluating  
16 the 20 percent capacity factor annually rather than over a  
17 compliance period.

18 Redding Electric Utility is a Northern California  
19 Public Utility -- publicly-owned utility governed by its city  
20 council. We serve over 44,000 customers with an annual  
21 electricity load of over 700 gigawatt hours. As reported in  
22 the 2018 U.S. Census data, Redding is a low-income community  
23 of a population about 92,000 with about 19 percent of its  
24 citizens over the age of 65. Redding's median household  
25 income in 2017 dollars was just over 46,000 with 18.9 percent

1 of the population in poverty.

2           The current COVID-19 crisis is creating significant  
3 further economic challenges to our citizens. In response to  
4 the energy crisis, city council authorized investments in our  
5 natural gas-powered electricity generation plants for the  
6 purpose of providing reliable and affordable power for our  
7 community. Outstanding debt for the Redding Power Plant is  
8 approximately 88 million to being repaid through 2031 with  
9 annual payments of approximately \$8 million.

10           To the Redding community, the value of SB 1110 when  
11 applied as intended by Senator Bradford is significant,  
12 estimated at 450,000 to 750,000 each year. However, under  
13 the CEC's interpretation, the value of SB 1110 has diminished  
14 to zero. Redding is not alone in being significantly  
15 impacted by the implementation of SB 1110 as Roseville  
16 Electric Utility is in a similar situation.

17           SB 1110 does not in any way impede us from achieving  
18 all renewable energy procurement targets as legislated, this  
19 bill simply offers Redding customers financial relief through  
20 the time the bonds are paid off without the annual average  
21 being evaluated on a yearly basis as was the intent of the  
22 bill. Redding may be forced to lay off employees, possibly  
23 shuttering the facility which will force the burden of the  
24 remaining debt to be paid off by the community through  
25 increased rates.

1           At this extraordinarily economically challenging  
2 time, we urge the Commission to implement SB 1110 by  
3 evaluating the 20 percent capacity factor annually as the law  
4 intended.

5           And that is the end of the comment.

6           Okay. So it looks like we have concluded the public  
7 comment portion of the workshop.

8           Commissioner Douglas, do you have any questions or  
9 follow up before we close?

10           COMMISSIONER DOUGLAS: Hi, I was looking for my mute  
11 button.

12           I just want to thank everybody for participating and  
13 I don't have any additional comment.

14           MS. BARKALOW: Okay. Katharine.

15           MS. LARSON: Great. Then thank you all, everyone for  
16 coming, participating, listening, joining us via Zoom for  
17 this very first workshop.

18           Just as a reminder, please provide your written  
19 comments by June 22<sup>nd</sup>, the end of the 45-day comment period.  
20 We certainly appreciate comments submitted earlier, if  
21 possible, and really encourage you to provide feedback even  
22 on those areas that you've asked for further clarification or  
23 you raised a need for further clarification. We are  
24 reviewing those areas that I mentioned but we certainly  
25 appreciate your further thoughts and suggestions on what

1 clarifications might be appropriate and we rely on your  
2 comments.

3 And with that, thank you all very much for coming.  
4 And we really appreciate it and hope you all have a great  
5 rest of your Monday.

6 Thank you.

7 (Thereupon, the Hearing was adjourned at 12:01 p.m.)

8 --oOo--

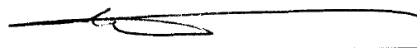
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