

CALIFORNIA
ENERGY
COMMISSION

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*RENEWABLE
ENERGY
PROGRAM*

OVERALL PROGRAM GUIDEBOOK

DRAFT

APRIL 2006

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These guidelines were formally adopted by the California Energy Commission on February 19, 2003, pursuant to Public Utilities Code Section 383.5, Subdivision (h), and subsequently revised pursuant to this authority and Public Resources Code Section 25747 (a) on April 21, 2004, -May 19, 2004, and are currently under consideration for revision.

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I. Introduction

The California Energy Commission (Commission) has developed these *Guidelines* to implement and administer its Renewable Energy Program under Senate Bill 1038 (SB 1038, Sher, Chapter 515, Statutes of 2002)¹. This law in conjunction with the Reliable Electric Service Investments Act² extends the collection of a non-bypassable system benefit charge initiated in 1998 under Assembly Bill 1890 (Brulte, Chapter 854, Statutes of 1996) and authorizes the expenditure of funds collected to support existing, new, and emerging renewable resources. The goal of SB 1038 is to establish a competitive, self-sustaining renewable energy supply for California while increasing the near-term quantity of renewable energy generated in-state.

These *Guidelines* also address aspects of the Renewable Energy Program related to the state's Renewables Portfolio Standard (RPS) under Senate Bill 1078 (Sher, Chapter 516, Statutes of 2002).³ This law requires certain retail sellers of electricity to increase the amount of renewable energy they procure each year by 1 percent until the renewable energy content of their electricity portfolios equal 20 percent. Retail sellers of electricity must meet this 20 percent level by December 31, 2017. Under SB 1078, the Energy Commission is charged with certifying eligible renewable energy resources that may be used by retail sellers of electricity to satisfy their RPS procurement requirements and for developing an accounting system to verify a retail seller's compliance with the RPS. Many of these eligible renewable energy resources may qualify for funding under the Renewable Energy Program.

These *Guidelines* were adopted to govern the Renewable Energy Program and its various program elements under SB 1038 and SB 1078, to assist interested applicants in applying for Program funds and RPS certification, and for verifying RPS compliance. The *Guidelines* are divided into six parts and available in six separate documents:

- *Overall Program Guidebook*
- *Existing Renewable Facilities Program Guidebook*
- *Emerging Renewable Program Guidebook*
- *Renewable Resource Consumer Education Guidebook*
- *New Renewable Facilities Program Guidebook*
- *Renewables Portfolio Standard Eligibility Guidebook*

¹ The pertinent provisions of SB 1038 were formerly codified in Public Utilities Code Sections 383.5 and 445 but are now codified in Public Resources Code Sections 25740 through 25751 as a result of Senate Bill 183 (Sher), Chapter 666, Statutes of 2003.

² Public Utilities Code Section 399, et seq., as enacted by Assembly Bill 995 (Wright), Chapter 1051, Statutes of 2000 and Senate Bill 1194 (Sher), Chapter 1050, Statutes of 2000.

³ The pertinent provisions of SB 1078 are codified in Public Utilities Code Section 399.11 through 399.15. This law was subsequently amended to add Sections 399.16 and 399.17 pursuant to Senate Bill 67 (Stats. 2003, Ch. 731) and Assembly Bill 200 (Stats. 2005, Ch. 50), respectively.

To qualify for funding under the Renewable Energy Program or RPS certification, individuals and entities must satisfy the requirements and specifications contained in both this *Overall Program Guidebook* and the applicable program element guidebook. If after reading these *Guidelines* you require additional information about the Renewable Energy Program or its various program elements, please visit the Commission's Web site or contact the Commission's Call Center.

Web site:	< http://www.energy.ca.gov/renewables/ >
Call Center E-mail:	Renewable@energy.state.ca.us
Call Center Phone:	(800) 555-7794

II. General Provisions

1. Guidelines

These *Guidelines* shall be known as the *Renewable Energy Program Guidelines* and may be referred to herein as the *Guidelines*. As noted above, the *Guidelines* comprise six separate documents, referred to as guidebooks. These guidebooks are as follows:

- *Overall Program Guidebook*. This guidebook describes how the Renewable Energy Program will be administered. It includes information and requirements that apply overall to the Renewable Energy Program and program elements.
- *Existing Renewable Facilities Program Guidebook*. This guidebook describes the eligibility requirements specific to the Existing Renewable Facilities Program element and identifies eligible renewable generating facilities, eligible generation, the funding available, and specific administrative procedures for receiving funding under this program element.
- *Emerging Renewables Program Guidebook*. This guidebook describes the eligibility requirements specific to the Emerging Renewable Program and identifies eligible applicants, eligible renewable energy systems, the funding available, and specific administrative procedures for receiving funding under this program element.
- *Renewable Resource Consumer Education Guidebook*. This guidebook describes the eligibility requirements specific to the Consumer Education element of the Renewable Energy Program and identifies eligible applicants and projects and specific administrative procedures for receiving funding under this program element.
- *New Renewable Facilities Program Guidebook*. This guidebook describes the eligibility requirements specific to the New Renewable Facilities Program element and identifies eligible renewable generating facilities, eligible generation, the funding available, and specific administrative procedures for receiving funding under this program element.

- *Renewables Portfolio Standard Eligibility Guidebook*. This guidebook describes the eligibility requirements and process for certifying renewable energy resources as eligible for the RPS. This guidebook also describes the interim process the Commission will use to track and verify compliance with the RPS.

A seventh guidebook may be adopted in the future to address a Customer Credit Program element should the Commission choose to implement this program element. The Commission does not anticipate implementing a Customer Credit Program element at this time. Pursuant to SB 1038, the Commission prepared a report for the Governor and the Legislature recommending that a Customer Credit Program element not be implemented and that any funds allocated for this purpose be reallocated for use in the Emerging Renewable Program, New Renewable Facilities Program, and Consumer Education program elements. This report, titled *Customer Credit Renewable Resources Account: Report to the Governor and the Legislature*, was published in April 2003.

2. Authority

These *Guidelines* are adopted pursuant to Public Resources Code Section 25747, Subdivision (a), which directs the Commission to adopt guidelines governing the funding programs authorized by Public Resources Code Section 25740 through 25751, and portions of the RPS under Public Utilities Code Section 399.13. The guidelines adopted pursuant to this authority are exempt from the rulemaking requirements of the Administrative Procedures Act, as specified in Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code. These *Guidelines* may be revised pursuant to Public Resources Code Section 25747, Subdivision (a).⁴

3. Application

These *Guidelines* govern any funding available under the Renewable Energy Program or any of the program elements starting January 1, 2003. Any funding awarded prior to this date from the Renewable Energy Program — including any funding from the Existing Renewable Resources Account, New Renewable Resources Account, Emerging Renewable Resources Account, or Customer-side Renewable Resource Purchases Account — shall be subject to the adopted guidelines applicable at that time.

These *Guidelines* also govern the certification of renewable energy resources eligible for the RPS.

⁴ The *Guidelines* were initially adopted pursuant to Public Utilities Code Section 383.5, Subdivision (h), which was subsequently amended and recast as Public Resources Code Section 25747, Subdivision (a), pursuant to Senate Bill 183.

4. Interpretation

Nothing in these *Guidelines* shall be construed to abridge the powers or authority of the Commission or any Commission-designated Committee as specified in Division 15 of the Public Resources Code, commencing with Section 25000, or Division 2 of Title 20 of the California Code of Regulations, commencing with Section 1001.

5. Effective Date

These *Guidelines* shall take effect once adopted by the Commission at a publicly noticed Business Meeting with no less than 30 days public notice.

6. Substantive Changes

Substantive changes to these *Guidelines* may be made upon the recommendation of the assigned Committee with the approval of the Commission. Substantive changes shall take effect once adopted by the Commission at a publicly noticed Business Meeting with no less than 10 days public notice. Substantive changes include, but are not limited to, the following:

- a. Changes in the eligibility or evaluation criteria.
- b. Changes to funding or incentives levels.
- c. Reallocation of funds between program elements.

7. Non-Substantive Changes

Non-substantive changes to these *Guidelines* may be made upon the recommendation and approval of the assigned Committee. Non-substantive changes shall take effect 10 days after the assigned Committee has approved and publicly noticed the non-substantive changes. Non-substantive changes include, but are not limited to, the following:

- a. Changes to the formatting of any application form, invoice, or report required under these *Guidelines* and
- b. Changes to information required in any application form, invoice, or report required under these *Guidelines*.

8. Definitions

The terms defined below are used repeatedly throughout this *Overall Program Guidebook*. A glossary of pertinent terms used in the program element guidebooks is appended for reference purposes.

- a. "Awardee" - An individual or entity awarded or reserved grant funding or certified as RPS eligible, or both, pursuant to these *Guidelines*.
- b. "Billing Month" - The period of time coinciding with a calendar month in which an awardee is entitled to receive a payment pursuant to the awardee's funding award.
- c. "Commission" - State Energy Resources Conservation and Development Commission. Also referred to as the California Energy Commission.
- d. "Committee" – A Committee of the California Energy Commission charged with overseeing implementation of the Renewable Energy Program. At the time these *Guidelines* were adopted, the Renewables Committee was charged with this responsibility.
- e. "Funding Award" - An award or reservation of grant funding under the Renewable Energy Program pursuant to these *Guidelines*.
- f. "Guidelines" – The guidelines governing the Renewable Energy Program, including aspects related to RPS eligibility. These guidelines include the following:
 - *Overall Program Guidebook.*
 - *Existing Renewable Facilities Program Guidebook.*
 - *Emerging Renewables Program Guidebook.*
 - *Renewable Resources Consumer Education Guidebook.*
 - *New Renewable Facilities Program Guidebook.*
 - *Renewables Portfolio Standard Eligibility Guidebook.*
- g. "Registrant" - Any individual or entity that applies for and is granted registration as a renewable supplier pursuant to these *Guidelines*.
- h. "Renewable Resource Trust Fund" - The fund created in the State Treasury pursuant to Public Resources Code Section 25751, and comprising the following accounts:
 - Existing Renewable Resources Account.
 - New Renewable Resources Account.
 - Emerging Renewable Resources Account.
 - Customer Credit Renewable Resource Purchases Account.
 - Renewable Resources Consumer Education Account.
- i. "RPS Certification" – Certified by the Commission as eligible for purposes of the meeting the state's Renewables Portfolio Standard under SB 1078, or eligible for meeting both the state's Renewables Portfolio Standard and for receiving supplemental energy payment from the New Renewable Facilities Program element under SB 1078 and SB 1038.

- j. "Substantive Changes" - Changes to these *Guidelines* that affect an individual's or an entity's ability to qualify for awards made pursuant to these *Guidelines*, or affect the award amount of any awardee.

III. Program Funding

1. Existing Renewable Facilities Program

Twenty percent (20%) of the funds deposited into the Renewable Resource Trust Fund pursuant to SB 1038, approximately \$135,000,000 over five years, are available for the Existing Renewable Facilities Program element.

2. Emerging Renewables Program

Seventeen and one-half percent (17.5%) of the funds deposited into the Renewable Resource Trust Fund pursuant to SB 1038, approximately \$118,125,000 over five years, are available for the Emerging Renewables Program element.

3. Consumer Education

One percent (1%) of the funds deposited into the Renewable Resource Trust Fund pursuant to SB 1038, approximately \$6,750,000 over five years, is available for the Consumer Education Program element of the Renewable Energy Program.

4. New Renewable Facilities Program

Fifty-one and one-half percent (51.5%) of the funds deposited into the Renewable Resource Trust Fund pursuant to SB 1038, approximately \$347,625,000 over five years, are available for the New Renewable Facilities Program element.

5. Customer Credit Program

Ten percent (10%) of the funds deposited into the Renewable Resource Trust Fund pursuant to SB 1038, approximately \$67,500,000 over five years, are available for the Customer Credit Program element.

In accordance with the Commission's recommendations as stated in its report titled *Customer Credit Renewable Resources Account: Report to the Governor and the Legislature*, published in April 2003, the funds available for a Customer Credit Program element are reallocated as follows:

- 10 percent (approximately \$6,750,000 over five years) to the Consumer Education program element
- 90 percent (approximately \$60,750,000 over five years) to the Emerging Renewables Program element

(The Commission had previously recommended in the above noted report that 30 percent of these funds (approximately \$30,375,000) be reallocated to the New Renewable Facilities Program. However, an increase in demand in the Emerging Renewables Program dictates that the Commission reallocate these funds for this program element.)

6. Reallocation of Program Funds

Funds available for a particular program element may be reallocated to another program element at the Commission's discretion. Any reallocation of funds shall comport with the following requirements and shall be recommended by the Committee.

- a. The reallocation shall be consistent with the Commission's legislative reports, as required by Public Resources Code Section 25748, Subdivision (a), and Public Utilities Code Section 399.6.
- b. Pursuant to Public Resources Code Section 25748, Subdivision (b), the reallocation may not increase the funds available to the Existing Renewable Facilities Program as provided in Subsection 1 of this section.
- c. Pursuant to Public Resources Code Section 25748, Subdivision (b), the reallocation may not decrease the funds available to the New Renewable Facilities Program as provided in Subsection 4 of this section.

7. Transfers of Program Funds

Funds may be transferred between program elements for cash flow purposes, provided the balance due each program element is restored and the transfer does not adversely affect the program element as determined by the Commission.

8. Administrative Expenses

The Commission may use funds deposited into the Renewable Resource Trust Fund pursuant to SB 1038 to administer the Renewable Energy Program to the extent appropriated by the Legislature and authorized by the California Department of Finance.

9. Interest on Program Funds

Interest earned on the funds deposited in the Renewable Resource Trust Fund pursuant to SB 1038 may be used to augment funds for a particular program element at the Commission's discretion, as recommended by the Committee. Such interest may be used for the Commission's administration of the Renewable Energy Program to the extent appropriated by the Legislature and authorized by the California Department of Finance.

IV. Application for Program Funds and RPS Certification

1. Applicant Eligibility

Individuals and entities are eligible for program funding and RPS certification if they satisfy the eligibility requirements specified in the program element guidebooks.

2. Applications for Program Funding and RPS Certification

To qualify for funding or RPS certification, eligible individuals and entities must apply to the Commission as specified in the applicable program element guidebook.

3. Approvals of Funding Awards and RPS Certification

Funding shall be awarded to eligible applicants as specified in the program element guidebooks. Formal Commission approval of each funding award shall not be required unless stated otherwise in the program element guidebooks.

RPS certification shall be approved for eligible applicants as specified in the *Renewables Portfolio Standard Eligibility Guidebook*. Formal Commission approval of each application for RPS certification shall not be required unless stated otherwise in the *Renewables Portfolio Standard Eligibility Guidebook*.

4. Cancellation of Funding Awards and RPS Certification

The Committee may cancel the funding award or RPS certification of any awardee that changes or otherwise modifies its basis for funding or RPS certification eligibility under these *Guidelines* and no longer satisfies the requisite eligibility criteria. The Committee shall notify the awardee in writing of the basis for canceling the awardee's funding award or RPS certification, the effective date of the cancellation, and the terms and conditions for the repayment of any portion of the funding award the awardee was not otherwise entitled to receive. The written notice required herein shall be given at least 15 days in advance of the effective date of the cancellation to provide the awardee an opportunity to file a petition for reconsideration pursuant to Section V of these *Guidelines*.

5. Funding Award Invoicing

Awardees shall submit the necessary invoices and supporting documentation as specified in the program element guidebooks to receive funding award payments.

6. Funding Award Payments

Funding award payment shall be made to awardees as specified in the program element guidebooks. However, funding award payments shall not be made under any of the following conditions.

- a. The Committee determines, pursuant to Subsection 4 of this section, that the awardee is no longer eligible to receive a funding award.
- b. The awardee fails to properly invoice the Commission's Accounting Office as specified in Subsection 5 of this section.
- c. An audit conducted pursuant to Subsection 8 of this section reveals an awardee's invoice, submitted pursuant to Subsection 5 of this section, is overstated, inaccurate or unsupported.
- d. The awardee fails to repay the Commission for any overpayment the awardee received as specified in the written notice issued pursuant to Subsection 8 of this section.
- e. Based on an investigation conducted pursuant to Section VII, Subsection 2, the Committee determines that the awardee has misstated, falsified, or misrepresented information in applying to register as a renewable supplier, in applying for a funding award or RPS certification, in invoicing for a funding award payment, or in reporting any information required by these *Guidelines*.

7. Assignment of Funding Award Payments

Awardees may assign their right to receive a funding award payment to a third party by completing the appropriate assignment form and submitting it to the Commission's Accounting Office, along with the necessary invoices and supporting documentation as specified in the program element guidebooks.

8. Audits

The Commission's Accounting Office or its authorized agents, in conjunction with Commission technical staff, may audit any awardee to verify the accuracy of any information included as part of an application for funding, RPS certification, or registration, invoice for funding award payment, or report required under these *Guidelines*. As part of an audit, an awardee may be required to provide the Accounting Office or its authorized agents with any and all information and records necessary to verify the accuracy of any information included in the awardee's applications, invoices, or reports. An awardee may also be required to open its business records for on-site inspection and audit by the Accounting Office or its authorized agents for purposes of verifying the accuracy of any information included in the awardee's applications, invoices, and reports.

If an audit finds that an awardee has incorrectly stated or falsified information included on the awardee's applications, invoices, or reports, the Accounting Office will notify the awardee of its findings in writing within 30 days of completing the audit. Based on the audit results, an awardee may be required to refund all or a portion of the funding award payments it has received. In addition, the awardee's funding award or RPS certification may be cancelled pursuant to Subsection 4 of this section and enforcement actions initiated pursuant to Section VII.

9. Record Retention

Awardees shall keep all records relating to and verifying the accuracy of any information included in an application for funding, RPS certification, or registration, invoice for funding award payment, or report submitted pursuant to these *Guidelines*. These records shall be kept for no less than three years after the end of the calendar year in which the awardee's RPS certification is approved or the awardee's final funding award payment is made, whichever is longer. These records shall be made available to the Commission or its authorized agents as part of any audit conducted pursuant to these *Guidelines*.

10. Use and Disclosure of Information and Records

The Commission or its authorized agents may use any information or records submitted to the Commission or obtained as part of any audit pursuant to these *Guidelines* to determine eligibility and compliance with the *Guidelines*, evaluate the Renewable Energy Program, the RPS, or related Commission program, and prepare necessary reports as required by law. The information and records include, but are not limited to, applications for registration, funding, and RPS certification, invoices for funding award payments, and any documentation submitted in support of said applications or invoices.

Information and records submitted pursuant to these *Guidelines* will be disclosed to other governmental entities and policing authorities for civil and criminal investigation and enforcement purposes. This information and records may also be disclosed to members of the public pursuant to the California Public Records Act (Government Code Sections 6250 et sequentia). Personal information, such as taxpayer identification or social security numbers, will not be disclosed to members of the public.

Information concerning the identity of awardees and the amount or payment of funding awards is public information and will be disclosed pursuant to the California Public Records Act. This information, along with other public information describing program participants, may be disclosed to members of the public to educate them and encourage further program participation. The information may be disclosed through the Commission's Web site or other means, as the Commission deems appropriate.

If, as part of any audit, the Commission requires the awardee to provide copies of records that the awardee believes contain proprietary information entitled to protection

under the California Public Records Act or other law, the awardee may request that such records be designated as confidential pursuant to the Commission's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505.

11. Tax Consequences

Awardees are responsible for any federal and state tax consequences associated with the receipt of funding award payments. The Commission will report funding award payments to the Internal Revenue Service and issue the awardee an informational form (e.g., 1099-Misc) when required to do so by law. To process funding award payments for tax purposes, awardees must complete a Vendor Record Data Record form to provide the Commission taxpayer information. The taxpayer identified in this form must be the awardee as identified in the funding award application. Copies of this form and instructions for completing it are included in the program element guidebooks. Awardees who assign their funding award payments to third parties pursuant to Subsection 7 will be reported as the recipient of said payment and issued the informational form when required by law. Applicants should carefully consider the tax consequences of receiving funding award payments when applying for funding awards under any of the program elements.

V. Reconsideration of Funding Awards, Funding Award Cancellations, and Registration

1. Committee Reconsideration

Any individual or entity may petition the Committee for reconsideration if the application for funding or RPS certification was denied, their funding award reduced or cancelled, their RPS certification cancelled, their application to register as a renewable supplier denied, or their registration as a renewable supplier revoked. The petition for reconsideration shall be in writing and shall be submitted, together with any supporting documentation, to the Committee at the following address within 15 days of receiving the notice of funding award or RPS certification denial, cancellation, or reduction, or registration denial or revocation.

Address: California Energy Commission
Renewables Committee
1516 9th Street, MS-31
Sacramento, CA 95814-5512

The petition shall specify the basis for the appeal, state why the petitioner believes the funding award or RPS certification denial, cancellation, or reduction, or registration denial or revocation is improper given the eligibility criteria for the funding award, RPS certification, or registration, explain any supporting documentation filed with the petition,

identify any legal authority or other basis supporting the petitioner's position, and identify the remedy sought.

Within 45 days of receiving a complete petition, the Committee, at its discretion, shall either issue a decision based on its consideration of the petition and the written response of Commission staff or schedule a hearing to consider the petition. If a hearing is scheduled, the petitioner shall be notified of the hearing date and any additional information the petitioner is directed to submit. This notice shall be given at least 15 days in advance of the Committee hearing date. The Committee may direct the petitioner and Commission staff to attend the Committee hearing to offer pertinent testimony.

The Committee shall provide the petitioner with a written decision on the petition within 45 days of holding the hearing. Should the petitioner disagree with the Committee's decision, the petitioner may appeal the decision to the Commission pursuant to Subsection 2 of this section.

2. Commission Appeals

Within 15 days of receiving the Committee's decision, the appealing party shall file a letter of appeal stating why the Committee's decision is unacceptable. The letter of appeal — along with a copy of the petition for reconsideration, supporting documentation, and the Committee's written decision — shall be sent to the Commission's Public Adviser at the following address.

California Energy Commission
Public Adviser's Office
1516 9th Street, MS-12
Sacramento, CA 95814-5512

Within 30 days of receiving the letter of appeal, the Public Adviser shall arrange for the appeal to be presented to the Commission at a regularly scheduled Business Meeting. The Public Adviser shall inform the appealing party in writing of the Business Meeting date and the procedures for participating in the Business Meeting. The appealing party shall be responsible for presenting the appeal to the Commission during the Business Meeting. Unless otherwise determined during the course of the Business Meeting, the Commission shall determine the appeal during the Business Meeting.

VI. Disputes of Funding Award Payments

1. Accounting Office Review

Awardees may dispute the amount of a funding award payment by filing a written claim with the Commission's Accounting Office. The claim shall be filed within 15 days of receipt of the payment, the amount of which is disputed, or a notice from the

Commission's Accounting Office indicating no payment will be made. The claim must be filed, together with any evidence supporting the awardee's position, with the Commission's Accounting Office at the following address.

California Energy Commission
Accounting Office
1516 9th Street, MS-2
Sacramento, CA 95814-5512

The claim shall identify the payment in dispute, the date on which payment was received or expected, an explanation of the evidence supporting the awardee's position, any legal authority or other basis supporting the awardee's position, and the amount of repayment sought. The Accounting Office will review the claim within 30 days of its receipt, determine its validity, and provide the awardee with a written decision supported by reasons. The written decision shall specify that portion of the claim, if any, determined to be valid and the amount and date when payment will be made. Should the awardee disagree with the determination of the Accounting Office, the awardee may seek reconsideration pursuant to Subsection 2 of this section.

2. Executive Office Review

Within 15 days of receiving a written decision from the Accounting Office, the awardee shall file a letter of reconsideration stating why the written decision is unacceptable. The letter shall be filed with the Commission's Executive Director, along with a copy of the original dispute claim, supporting documents, and the Accounting Office's written decision, at the following address:

California Energy Commission
Office of the Executive Director
1516 9th Street, MS-39
Sacramento, CA 95814-5512

The Executive Director, or his or her designee, will review the letter of reconsideration within 30 days of its receipt, assess the Accounting Office's written decision, and provide the awardee with a written decision. The written decision shall specify whether the Accounting Office's determination shall be upheld, whether any portion of the awardee's original dispute claim is deemed valid, and the amount and date that any repayment will be made. Should the awardee disagree with the Executive Director's determination, the awardee may appeal the determination to the Commission pursuant to Subsection 3 of this section.

3. Commission Appeal

Within 15 days of receiving the Executive Director's written determination, the awardee shall file a letter of appeal stating why the Executive Director's written decision is unacceptable. The letter of appeal shall be sent to the Commission's Public Adviser, along with a copy of the original dispute claim, supporting documents, and the Accounting Office and Executive Director decisions. The letter shall be sent to the following address:

California Energy Commission
Public Adviser's Office
1516 9th Street, MS-12
Sacramento, CA 95814-5512

Within 30 days of receiving the written appeal, the Public Adviser shall arrange for the appeal to be presented to the Commission at a regularly scheduled Business Meeting. The Public Adviser shall inform the awardee in writing of the Business Meeting date and the procedures for participating in the Business Meeting. The awardee shall be responsible for presenting the appeal to the Commission during the Business Meeting. Unless otherwise decided during the course of the Business Meeting, the Commission shall determine the awardee's appeal during the Business Meeting.

VII. Enforcement Action

1. Recovery of Overpayment

The Committee, with the concurrence of the Commission, may direct the Commission's Office of Chief Counsel to commence formal legal action against any awardee or former awardee to recover any portion of a funding award that the Committee determines the awardee or former awardee was not otherwise entitled to receive.

2. Fraud and Misrepresentation

The Committee may initiate an investigation of any registrant or awardee who the Committee has reason to believe may have misstated, falsified, or misrepresented information in applying for registration, funding, or RPS certification, invoicing for a funding award payment, or reporting any information required by these *Guidelines*. Based on the results of the investigation, the Committee may take any action it deems appropriate, including, but not limited to, revocation of the registration, cancellation of the funding award or RPS certification, recovery of any overpayment, and, with the concurrence of the Commission, recommending the Attorney General initiate an investigation and prosecution pursuant to Government Code Sections 12650, et seq., or other provisions of law.

VIII. Arbitration

If an awardee's dispute of funding award payment is not resolved to the satisfaction of the awardee through the Commission Appeal process specified in Chapter VI of these Guidelines, the awardee and the Commission may mutually agree to have the dispute resolved through binding arbitration. The arbitration proceeding shall take place in Sacramento County, California, and shall be governed by the commercial arbitration rules of the American Arbitration Association (AAA) in effect on the date the arbitration is initiated. One arbitrator who is an expert in the particular field of the dispute shall resolve the dispute. The arbitrator shall be selected in accordance with the aforementioned commercial arbitration rules. The decision rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction thereof. The demand for arbitration shall be made no later than six months after the date the Commission renders a decision through the Commission Appeal process specified in Chapter VI, irrespective of when the dispute arose, and irrespective of the applicable statute of limitations for a suit based on the dispute. If the awardee and the Commission do not mutually agree to arbitration, the sole forum to resolve the dispute is State court.

The cost of arbitration shall be borne by the awardee and Commission as follows:

- a. The AAA's administrative fees shall be borne equally by the parties.
- b. The expense of a stenographer shall be borne by the party requesting a stenographic record.
- c. Witness expenses for either side shall be paid by the party producing the witness.
- d. Each party shall bear the cost of its own travel expenses.
- e. All other expenses shall be borne equally by the parties, unless the arbitrator apportions or assesses the expenses otherwise as part of his or her award.

Glossary of Terms

Aggregator — an entity responsible for planning, scheduling, accounting, billing, and settlement for energy deliveries for portfolios of sellers and/or buyers.

Appropriation — consistent with Water Code Section 1201, the right to use a specified quantity of water from any surface streams or other surface bodies of water, or from any subterranean streams flowing through known and definite channels.

Annual procurement target — the quantity of eligible renewable resources that a retail seller must procure within a particular year to reach the target of 20 percent of its retail sales procured from eligible energy resources no later than December 31, 2017.

Baseline — refers to the quantity of eligible renewable resources procured in 2001. For purposes of the baseline, “procurement” includes power sold to an investor-owned utility’s customers by the Department of Water Resources and power from a facility owned or contracted for by the investor-owned utility in accordance with Public Utilities Code Section 399.15 (a) (3) and (b)(2).

Billing month — the period of time coinciding with a calendar month in which a Registered Renewable Supplier is entitled to receive an incentive payment pursuant to these *Guidelines*.

Biomass — any organic material not derived from fossil fuels, including agricultural crops, agricultural wastes and residues, waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape and right-of-way tree trimmings, mill residues that result from milling lumber, rangeland maintenance residues, sludge derived from organic matter, and wood and wood waste from timbering operations.

Capacity — the maximum amount of electricity that a generating unit, power facility, or utility can produce under specified conditions. Capacity is measured in kilowatts or megawatts.

Collaborative Staff — the staff at the Energy Commission and the California Public Utilities Commission who have been designated as having special status to work collaboratively and participate in confidential deliberations concerning decision-making on the implementation of the RPS.

Commercial operation — the date on which a renewable energy facility first generates power for use by the facility or any customer or for sale to any procuring retail seller. (In the event power is sold to a retail seller, this definition shall be consistent with the facility’s initial power purchase contract with a retailer seller.)

Commercially available — for purposes of the Emerging Renewables Program, any complete generating system that is based on a designated emerging technology and is available for immediate purchase under typical business terms and deliverable within a reasonable period of time.

Community choice aggregator — as defined in Public Utilities Code Section 331.1 refers to any of the following entities, if that entity is not within the jurisdiction of a local publicly owned electric utility that provided electrical service as of January 1, 2003: any city, county, or city and

county whose governing board elects to combine the loads of its residents, businesses, and municipal facilities in a communitywide electricity buyers' program or any group of cities, counties, or cities and counties whose governing boards have elected to combine the loads of their programs, through the formation of a joint powers agency established under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Competitive transition charge (CTC) — a charge authorized by the California Public Utilities Commission that is imposed on investor-owned utility (IOU) ratepayers (or customers that receive electricity distribution services from the IOU) to recover the costs of utility investments made on behalf of their former customers. The CTC is to be collected in a competitively neutral manner that does not increase rates for any customer class solely due to the existence of transition costs. [Public Utilities Code Section 367]

Conventional power source — Public Utilities Code Section 2805 defines a “conventional power source” as power derived from nuclear energy, the operation of a hydropower facility greater than 30 megawatts, or the combustion of fossil fuels with the exception of cogeneration.

Digester gas — gas from the anaerobic digestion of organic wastes.

Distributed generation — small-scale electricity generation facilities sited in or close to a load center or at a customer's site.

Diversion — consistent with Water Code Section 5100(b), the taking of water by gravity or pumping from a surface stream or subterranean stream flowing through a known and definite channel, or other body of surface water, into a canal, pipeline or other conduit, and includes impoundment of water in a reservoir.

Electric service provider — as defined in Public Utilities Code Section 218.3 refers an entity that offers electrical service to customers within the service territory of an electrical corporation but does not include an entity that offers electrical service solely to service customer load consistent with Public Utilities Code Section 218, Subdivision (b) and does not include an electrical corporation or a public agency that offers electrical service to residential and small commercial customers within its jurisdiction, or within the service territory of a local publicly owned electric utility. Electric service providers include the unregulated affiliates and subsidiaries of an electrical corporation.

Electrical corporations — Pacific Gas and Electric Company, San Diego Gas and Electric Company, Southern California Edison Company, PacifiCorp, Sierra Pacific Power, Southern California Water Company (doing business as Bear Valley Electric Service), or other electrical corporations as defined by Public Utilities Code Section 218. Also referred to as “investor-owned utilities.”

Emerging renewable technology — technology that uses a renewable power source, such as solar or wind energy, to generate electricity, and that has emerged beyond the research and development phase, is commercially available, and has significant commercial potential as determined by the Energy Commission. Emerging renewable technologies include photovoltaic, solar thermal electric, fuel cells using a renewable fuel, and small wind turbine technology no greater than 50 kilowatts in size.

End-use customer (end-user) — a residential, commercial, agricultural, or industrial electric customer who buys electricity to be consumed as a final product (not for resale).

Existing long-term contract — a power purchase contract entered into with an IOU prior to September 26, 1996, that provides long-term fixed energy and/or capacity payments.

Facility — see “project.”

Fixed energy payments — payments to a generator for energy delivered under a power purchase contract, which are based on a price per unit measure of electricity that was known or ascertainable at the time the contract was entered into. (Fixed energy payments cannot be based on market conditions, such as short-run avoided costs, since these conditions were not known or ascertainable at the time the power purchase contract was entered into).

Fossil fuel — fuel comprised of hydrocarbon constituents, including coal, petroleum, or natural gas, occurring in and extracted from underground deposits, and mixtures or byproducts of these hydrocarbon constituents.

Fuel cell — an advanced energy conversion device that combines hydrogen-bearing fuels with airborne oxygen in an electrochemical reaction to produce electricity very efficiently and with minimal environmental impact.

Full-scale — for purposes of the Emerging Renewable Program, refers to scale or size equal or comparable to the scale at which commercially available generating systems are being sold or are expected to be sold.

Geothermal — natural heat from within the earth, captured for production of electric power, space heating, or industrial steam.

Grid — the electrical transmission and distribution system linking power plants to customers through high power transmission line service.

Hydroelectric — a technology that produces electricity by using falling water to turn a turbine generator, referred to as hydro. See also “small hydro.”

Incremental geothermal — pursuant to Public Utilities Code Section 399.12 (a)(2), incremental geothermal refers to the electricity that can be produced from existing geothermal resource and is eligible to be counted toward an utility’s required additional procurement rather than its baseline.

In-state renewable electricity generation facility — as defined in Public Resources Code Section 25741(a).

Investor-Owned Utility (IOU) — synonymous with “electrical corporations” as defined herein. For purposes of the *Existing Renewable Facilities Program Guidebook* and the *Emerging Renewables Program Guidebook*, refers collectively to Pacific Gas & Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Water Company (doing business as Bear Valley Electric Service); the four electrical corporations whose ratepayers are subject to a surcharge for the purpose of funding various public goods programs, including the Energy Commission’s Renewable Energy Program.

For purposes of the *New Renewable Facilities Program Guidebook* and the *Renewables Portfolio Standard Eligibility Guidebook*, refers collectively to Pacific Gas & Electric Company,

Southern California Edison Company, San Diego Gas & Electric Company, PacifiCorp, and Sierra Pacific Power.

Kilowatt (kW) — one thousand watts. A unit of measure for the amount of electricity needed to operate given equipment. A typical home using central air conditioning and other equipment might have a demand of 4-6 kW on a hot summer afternoon.

Kilowatt hour (kWh) — the most commonly-used unit of measure telling the amount of electricity consumed over time. It means one kilowatt of electricity supplied for one hour. A typical California household consumes about 500 kWh in an average month.

Landfill gas (LFG) — gas produced by the breakdown of organic matter in a landfill (composed primarily of methane and carbon dioxide) or the technology that uses this gas to produce power.

Local publicly owned electric utility — as defined in Public Utilities Code Section 9604, Subdivision (d), and which includes a municipal utility district, a public utility district, an irrigation district, or a joint powers authority made up of one or more of these entities.

Market price referent — refers to the cost of a non-renewable product used as a comparison to renewable products that are needed to satisfy a retail seller's RPS obligation pursuant to Public Utilities Code Section 399.15 (c). Further, pursuant to Section 399.14 (f), procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable resources, at or below the market price determined by the California Public Utilities Commission pursuant to Subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates.

Marketer — an agent for generation projects who markets power on behalf of the generator. The marketer may also arrange transmission, firming, or other ancillary services as needed. Though a marketer may perform many of the same functions as a broker, a marketer represents the generator while a broker acts as a middleman.

Megawatt (MW) — one thousand kilowatts. One megawatt is about the amount of power to meet the peak demand of a large hotel.

Megawatt hour (MWh) — a unit of measure describing the amount of electricity consumed over time. It means one megawatt of electricity supplied for one hour. Two typical California households consume about a combined total of 1 MWh in an average month, one household consumes about 0.5 MWh.

Metered — the independent measurement with a standard meter of the electricity generated by a project or facility.

Municipal solid waste (MSW) — solid waste as defined in Public Resources Code Section 40191.

Municipal utility — a local publicly owned (customer-owned) electric utility that owns or operates electric facilities subject to the jurisdiction of a municipality, as opposed to the California Public Utilities Commission.

Ocean thermal — refers to experimental technology that uses the temperature differences between deep and surface ocean water to produce electricity.

Ocean wave — refers to an experimental technology that uses ocean waves to produce electricity.

On-site generation — any electricity that is generated and used to serve load on that same site.

Owned by electrical corporations or local publicly owned electric utilities — for purposes of the Emerging Renewable Program, any generating systems purchased, owned, and operated by electrical corporations or local publicly owned electric utilities and, if installed on a customer's premises, the power produced by such systems does not offset the power consumed by the customer or otherwise directly benefit the customer. Systems purchased by electrical corporations or local publicly owned electric utilities and that, in turn, are leased or sold to customers or, if installed on a customer's premises, offset the customer's electricity consumption and are operated to the benefit of the customer as if owned by the customer are not considered to be owned by such electrical corporations or local publicly owned electric utilities for the purposes of the Emerging Renewables Program.

PG&E — Pacific Gas & Electric Company

Photovoltaic (PV) — a technology that uses a semiconductor to convert sunlight directly into electricity.

Placed in service — for purposes of the Emerging Renewables Program, refers to a generating system that has been installed, is operational, and capable of producing electricity.

Power purchase contract — an agreement for the purchase of electrical energy and/or capacity, and that may be structured to provide payments based on both fixed and/or variable factors.

Procurement — for the purposes of Public Utilities Code Section 399.14 (g), refers to a utility acquiring the renewable output of electric generation facilities that the utility owns or for which it has contracted.

Project — for purposes of the New Renewable Facilities Program, refers to a group of one or more pieces of generating equipment, and ancillary equipment necessary to attach to the transmission grid that is unequivocally separable from any other generating equipment or components. Two or more sets of generating equipment that are contiguous or that share common control or maintenance facilities and schedules and are located within a one-mile radius shall constitute a single project.

For purposes of the Emerging Renewables Program, "project" refers to all otherwise eligible generating systems installed during the term of this program at one physical location and serving the electrical needs of all real and personal property at this location, as evidenced by the electric utility meter for this location.

For purposes of the Existing Renewable Facilities Program, "project" refers to a group of one or more pieces of electrical generating equipment, and ancillary equipment necessary to attach to the transmission grid, that is unequivocally separable from any other electrical generating equipment or components. Two or more sets of electrical generating equipment that are

contiguous or that share common control or maintenance facilities and schedules and are located within a one-mile radius shall constitute a single project.

PTC — PVUSA Test Conditions (PTC), 1,000 watts/square meter plane of array (POA) irradiance for flat-plate photovoltaic modules or 850 watts/ square meter direct normal irradiance for concentrating photovoltaic or solar thermal systems with 20 degrees Centigrade ambient air temperature and 1 meter/second wind speed.

Public Goods Charge (PGC) — a surcharge applied to the electric bills of IOU ratepayers used to support energy efficiency, public interest research, development and demonstration, and low-income and renewable energy programs and collected pursuant to Public Utilities Code Section 399.

Public information — any information in the Commission's possession that is not subject to a request or determination of confidential designation pursuant to Title 20 of the California Code of Regulations, Sections 2505, et seq., and may be disclosed pursuant to the California Public Records Act (Government Code Sections 6250, et seq.) and the Information Practices Act (Civil Code Section 1798, et seq.).

Pumped hydro — an energy storage technology consisting of two water reservoirs separated vertically; during off-peak hours, water is pumped from the lower reservoir to the upper reservoir, allowing the off-peak electrical energy to be stored indefinitely as gravitational energy in the upper reservoir. During peak hours, water from the upper reservoir may be released and passed through hydraulic turbines to generate electricity as needed.

Qualifying facility — a qualifying small power production facility eligible for certification pursuant to Section 292.207 of Title 18 of the Code of Federal Regulations.

Renewable — a power source other than a conventional power source within the meaning of Section 2805 of the Public Utilities Code. Section 2805 states: “ ‘Conventional power source’ means power derived from nuclear energy or the operation of a hydropower facility greater than 30 megawatts or the combustion of fossil fuels, unless cogeneration technology, as defined in Section 25134 of the Public Resources Code, is employed in the production of such power.”

Renewable energy credits (RECs) — generally represent the non-energy attributes (such as environmental, economic, and social impacts) associated with the generation of renewable electricity; the attributes of a given unit of renewable generation, separated from the underlying electrical energy. Green tag, green ticket, and tradable renewable certificate (TRC) are often used synonymously with REC. The CPUC adopted an initial definition for RECs as part of its decision outlining RPS standard contract terms and conditions. For more information, please refer to Decision 04-06-014, Opinion Adopting Standard Contract Terms and Conditions, dated June 9, 2004, Rulemaking 04-04-026.

Renewables Portfolio Standard (RPS) — for the purposes of this document, the term refers to California's Renewables Portfolio Standard pursuant to SB 1078. Public Utilities Code Section 399.12, Subdivision (d) provides that, “‘renewables portfolio standard’ means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure....”. Under the RPS, an electrical corporation must increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible energy resources no later than December 31, 2017.

Repower(ed) — generically refers to replacing a significant portion of the generating equipment at an existing facility.

Retail seller — an entity engaged in the retail sale of electricity to end-use customers as defined in Public Utilities Code Section 399.12, Subdivision (c). Retail sellers include electrical corporations, community choice aggregators, and electric service providers. Retail sellers do not include local publicly owned electric utilities (commonly referred to as municipal utilities), entities employing cogeneration technology or producing power consistent with Public Utilities Code Section 218(b), or the Department of Water Resources acting within its capacity pursuant to Division 27 of Water Code (commencing with Section 80000).

RPS Collaborative Workplan — a written description of how the Energy Commission and the California Public Utilities Commission will work together to implement the RPS, including laying out a three-phased schedule to categorize and sequentially address issues as appropriate. The designated collaborative staff of the Energy Commission and the California Public Utilities Commission developed the RPS Collaborative Workplan.

SB 90 funding award — funding awarded under the New Renewable Resources Account under Notice of Auction 500-97-506, Notice of Auction 500-00-504, or Notice of Auction 6-01-3.

SCE — Southern California Edison Company

SDG&E — San Diego Gas & Electric Company

Self-generation — generation of electricity used on-site and not sold into the main power grid.

Sewer gas — gas produced by the anaerobic decomposition of sewage.

Small hydro — a facility employing one or more hydroelectric turbine generators, the sum capacity of which does not exceed 30 megawatts. Pursuant to Public Utilities Code Section 399.12, procurement from a small hydro facility as of January 1, 2003, is eligible only for purposes of establishing the baseline of an electrical corporation. A new small hydro facility is not eligible for the RPS if it will require a new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code. Pursuant to Public Utilities Code Section 383.5 (d) (2) (C) (iv) as amended by Public Resources Code Section 25743(b)(3)(D), a new small hydro facility must not require a new or increased appropriation of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code to be eligible for supplemental energy payments.

Solar thermal electric — the conversion of sunlight to heat and its concentration and use to power a generator to produce electricity.

Solid-fuel biomass — a biomass technology that uses solid fuel, such wood, agricultural waste, and other organic material that may be burned to produce electricity.

Supplemental Energy Payments (SEP) — incentive payments from the Energy Commission to eligible renewable generators for the costs above the market referent of energy procured to meet the RPS, pursuant to Public Utilities Code Section 399.15 (a) (2). Any indirect costs from procuring eligible renewable resources — such as imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades — are not eligible for SEP. The cost of the contract bids for renewable resources that are selected by the utilities to meet their RPS obligation will be compared to the cost of a comparable non-

renewable product, the market price referent. Costs for renewable products that exceed the referent, excluding indirect costs noted above, will be covered by the SEP, subject to availability of Public Goods Charge (PGC) funds, pursuant to Public Utilities Code Section 399.15 (a) (4). The Energy Commission will distribute the SEP directly to the renewable generator through its New Renewable Facilities Program.

Tidal current power — energy obtained by using the motion of the tides to run water turbines that drive electric generators.

Transmission system — an interconnected group of electric transmission lines and associated equipment to move or transfer electric energy in bulk between points of supply and consumption.

WECC interconnection — the substation where radial lines from a given power plant interconnect to the WECC-controlled transmission system.

Western Electricity Coordinating Council (WECC) — formed on April 18, 2002, by the merger of the Western Systems Coordinating Council (WSCC), Southwest Regional Transmission Association (SWRTA), and Western Regional Transmission Association (WRTA). WECC is responsible for coordinating and promoting electric system reliability, assuring open and non-discriminatory transmission access among members, and providing a forum for resolving transmission access disputes.

Wind power— energy from wind converted into mechanical energy and then electricity.