

May 6, 2013

California Energy Commission  
Dockets Office, MS-4  
Re: Docket No. 13-RPS-01  
1516 Ninth Street  
Sacramento, CA 95814-5512

**Re: 15-Day Language for Proposed Regulations Establishing Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities (Docket No. 13-RPS-01)**

Southern California Edison Company (“SCE”) respectfully offers these comments on the California Energy Commission’s (“Energy Commission’s”) changes to its proposed regulations establishing enforcement procedures for the Renewables Portfolio Standard (“RPS”) for local publicly owned electric utilities (“POUs”).

SCE strongly supports some aspects of the new proposed regulations. In particular, under Section 3204(a)(3) of the revised proposed regulations, POUs now have the same RPS procurement target for the third compliance period as other retail sellers, i.e., the sum of 27% of 2017 retail sales, 29% of 2018 retail sales, 31% of 2019 retail sales, and 33% of 2020 retail sales. This target is consistent with the Legislature’s intent that Senate Bill (“SB”) 2 (1x) bring all load-serving entities under one RPS program with consistent rules. For the third compliance period, it also complies with the statutory requirement that the quantities of eligible renewable energy resources to be procured by POUs “reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves . . . 33 percent of retail sales by December 31, 2020.”<sup>1</sup> SCE urges the Energy Commission to follow the same principles and modify the POUs’ RPS procurement target for the second compliance period to follow a straight-line trajectory to 25% renewables in 2016.<sup>2</sup>

There are other parts of the proposed regulations, however, that do not create equal rules among all load-serving entities. For example, the modifications to the proposed regulations allow POUs to bank short-term renewable procurement contracts as excess procurement. Specifically, the changes to Section 3202(a)(2)(A) and various

<sup>1</sup> Cal. Pub. Util. Code § 399.30(c)(2).

<sup>2</sup> The POUs’ RPS procurement target for the second compliance period should be the sum of 21.7% of 2014 retail sales, 23.3% of 2015 retail sales, and 25% of 2016 retail sales.

portions of Section 3206 of the proposed regulations remove the prohibition on POUs banking electricity products procured under contracts of less than 10 years duration executed on or after June 1, 2010 as excess procurement for use in future compliance periods. The Energy Commission should reject these modifications to the proposed regulations because they are contrary to legislation and the California Public Utilities Commission's ("CPUC's") implementation of RPS banking rules for retail sellers.

In SB 2 (1x), the Legislature expressly determined that the governing board of a POU may adopt "[r]ules permitting the utility to apply excess procurement in one compliance period to subsequent compliance periods in the same manner as allowed for retail sellers pursuant to Section 399.13."<sup>3</sup> Public Utilities Code Section 399.13 makes it clear that contracts executed on or after June 1, 2010 that are of less than 10 years in duration may not be counted as excess procurement for banking purposes, stating that "[i]n determining the quantity of excess procurement for the applicable compliance period, the commission shall deduct from actual procurement quantities, the total amount of procurement associated with contracts of less than 10 years in duration."<sup>4</sup> The CPUC has implemented this limit on banking short-term contracts as excess procurement for retail sellers.<sup>5</sup> It would be contrary to the clear language of SB 2 (1x) for the Energy Commission to allow POUs to bank short-term contracts signed on or after June 1, 2010 as excess procurement.

In addition to violating statutory requirements, applying different banking rules to POUs than other retail sellers creates an unfair disparity among the State's electricity customers, contrary to the intent of SB 2 (1x). In order to fulfill the Legislature's intent that all electricity customers in California share equally in the responsibility of meeting the State's aggressive RPS goals, the same banking rules should apply to all load-serving entities.

For these reasons, SCE recommends that the Energy Commission apply the same RPS procurement targets and banking rules to POUs that apply to retail sellers.

Very truly yours,

/s/ Manuel Alvarez

Manuel Alvarez

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<sup>3</sup> Cal. Pub. Util. Code § 399.30(d)(1) (emphasis added).

<sup>4</sup> *Id.* § 399.13(a)(4)(B).

<sup>5</sup> See CPUC Decision 12-06-038, Decision Setting Compliance Rules for the Renewables Portfolio Standard Program, June 21, 2012.