

M. Grady Mathai-Jackson
Attorney

Mailing Address
P.O. Box 7442
San Francisco, CA 94120

Street/Courier Address
Law Department
77 Beale Street
San Francisco, CA 94105

(415) 973-3744
Fax: (415) 972-5952
Internet: MGML@pge.com

May 6, 2013

VIA E-MAIL
DOCKET@ENERGY.CA.GOV
RPS33@ENERGY.CA.GOV

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 13-RPS-01
1516 Ninth Street
Sacramento, CA 95814-5504



Re: 33% Renewables Portfolio Standard; Comments of Pacific Gas and Electric Company on the 15 Day Language for the POU RPS Regulations

Pacific Gas and Electric Company (“PG&E”) appreciates the opportunity to provide comments on the “15-Day Language” for the Proposed Regulations Establishing Enforcement Procedures for the Renewables Portfolio Standard (“RPS”) for Local Publicly Owned Utilities (“POU”) (the “Proposed Regulation”) issued by the California Energy Commission (“Commission”) on April 19, 2013.

PG&E submitted comments on the 45-Day Proposed Regulation and prior informal drafts of the Proposed Regulation. PG&E specifically incorporates by reference in these comments PG&E’s April 15, 2013 letter to the Commission commenting on the 45-Day Proposed Regulation, given that the changes made in the 15-Day Language failed to address fully the issues raised in PG&E’s April 15, 2013 letter. Specifically:

- The 15-Day Proposed Regulation retains a flat trajectory for POU RPS compliance requirements in the 2014-2016 RPS compliance period. While PG&E appreciates that the 15-Day Proposed Regulation revises the targets in the 2017-2020 compliance period to be consistent with the RPS targets set by the California Public Utilities Commission (“CPUC”) for retail sellers, the failure to make similar revisions in the 2014-2016 compliance period is legally deficient and reflects poor public policy for the reasons described in PG&E’s April 15, 2013 letter. The 2014-2016 targets must be corrected.^{1/}

^{1/} See PG&E April 15, 2013 Letter at pp. 2-4.

- The 15-Day Proposed Regulation fails to make changes requested in PG&E’s April 15, 2013 letter to ensure that the public is able to participate fully in the determination of POU compliance with the RPS regulations. In particular, the Proposed Regulation should be revised to mandate that POU submissions to the Commission are further provided to all members of the RPS-related electronic distribution lists maintained by the Commission.^{2/}
- The 15-Day Proposed Regulation fails to correct statutory conflicts with regard to the treatment of the City and County of San Francisco (“CCSF”) under the Proposed Regulation. Specifically, the statute provides no authority for the Commission to allow CCSF to ignore the product content requirements in the statute and to procure RPS-eligible products in volumes less than the retail sales remaining after CCSF’s large hydro resources are subtracted.^{3/}

In addition, the changes in the 15-Day Proposed Regulation introduced a new conflict with the Senate Bill (“SB”) 2 (1x).^{4/} Namely, deletions made in Sections 3206(a)(1)(A), (D), and (E)(2) appear to allow POUs to count any short-term contracts (those with durations of less than 10 years) as excess procurement, so that these contracts may contribute to POUs’ RPS “bank” for use in later compliance periods. The 45-Day Proposed Regulation correctly stated that only “grandfathered” short-term contract (*ie.*, those meeting the requirements of Section 3202(a)(2)) may count toward excess procurement and required that all other short-term contracts be deducted from the available excess procurement in a given compliance period. The 45-Day Proposed Regulation was consistent in this regard with the CPUC’s interpretation of SB 2 (1x).^{5/} The changes in the 15-Day Language mean that POUs may be able to bank short-term contracts that retail sellers cannot. Moreover, the deletions in the 15-Day Language are plainly contradicted by SB 2 (1x), which requires that “in determining the quantity of excess procurement for the applicable compliance period, [POUs] shall deduct from actual procurement quantities, the total amount of procurement associated with contracts of less than 10 years in duration.”^{6/} Given the plain language of the statute and the inconsistency with the CPUC’s interpretation of the same statutory language, the Commission should revise the Proposed Regulation to clarify that short-term procurement not meeting the requirements of Section 3202(a)(2) must be subtracted from a POU’s excess procurement calculation.

PG&E appreciates the opportunity to provide comments on the 15-Day Proposed Regulation. The Commission should address the remaining issues identified in PG&E’s April 15, 2013 letter on the 45-Day Proposed Language and should correct the statutory conflict

^{2/} See *id.* at p. 5.

^{3/} See *id.* at pp. 5-7.

^{4/} Senate Bill 2 (2011-12 First Extraordinary Session, Stats. 2011, Ch 1).

^{5/} D.12-06-038 at 31 (holding that the statute requires that Section 399.16(d) of the statute requires that grandfathered short-term contracts be eligible to count as excess procurement), 66 (Table 6) (showing the CPUC’s formula for excess procurement subtracts short-term contracts “signed after June 1, 2010”).

^{6/} Cal. Pub. Util. Code § 399.13(a)(4)(B) as applied to POUs by § 399.30(d)(1).

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created by deletions made in the 15-Day Language to the excess procurement calculations. PG&E supports the revisions made in the 15-Day Language to use reasonable progress targets in the 2017-2020 compliance period that are consistent with those adopted by the CPUC.

Best regards,

/s/

M. Grady Mathai-Jackson

cc: Paul Douglas, CPUC, via E-mail at psd@cpuc.ca.gov
Sean Simon, CPUC, via E-mail at sean.simon@cpuc.ca.gov