

California Energy Commission

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# COMMISSION GUIDEBOOK

## RENEWABLE ENERGY PROGRAM OVERALL PROGRAM GUIDEBOOK

Sixth Edition

Commission Guidebook



CALIFORNIA  
ENERGY COMMISSION

Edmund G. Brown Jr., Governor

APRIL 2013

CEC-300-2013-008-ED6-CMF

# CALIFORNIA ENERGY COMMISSION

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The California Energy Commission formally adopted these guidelines on February 19, 2003, pursuant to former Public Utilities Code Section 383.5, Subdivision (h). The guidelines were subsequently revised pursuant to this authority and Public Resources Code Section 25747, Subdivision (a), on April 21, 2004, May 19, 2004, April 26, 2006, March 14, 2007, December 19, 2007, December 15, 2010, May 9, 2012, August 9, 2012, and April 30, 2013.

## **ABSTRACT**

The *Overall Program Guidebook* describes specific aspects of how the California Energy Commission's Renewable Energy Program is administered and outlines terms and definitions. This guidebook does not address any aspect related to California's Renewables Portfolio Standard (RPS) Program. These Guidelines help interested applicants apply for Renewable Energy Program funds.

**Keywords:** Awardee, funding award, renewable energy, retail sales

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# TABLE OF CONTENTS

<b>I. Introduction .....</b>	<b>1</b>
<b>II. General Provisions .....</b>	<b>3</b>
A. <i>Guidelines</i> .....	3
B. <i>Authority</i> .....	4
C. <i>Application</i> .....	4
D. <i>Interpretation</i> .....	4
E. <i>Effective Date</i> .....	4
F. <i>Substantive Changes</i> .....	4
G. <i>Definitions</i> .....	5
<b>III. Program Funding.....</b>	<b>6</b>
A. <i>Existing Renewable Facilities Program</i> .....	6
B. <i>Emerging Renewables Program</i> .....	6
C. <i>Consumer Education Program</i> .....	6
<b>IV. Applying for Program Funds .....</b>	<b>7</b>
A. <i>Applicant Eligibility</i> .....	7
B. <i>Applications for Program Funding</i> .....	7
C. <i>Approval of Funding Awards</i> .....	7
D. <i>Cancellation of Funding Awards</i> .....	7
E. <i>Funding Award Invoicing</i> .....	7
F. <i>Funding Award Payments</i> .....	7
G. <i>Assignment of Funding Award Payments</i> .....	8
H. <i>Audits</i> .....	8
I. <i>Record Retention</i> .....	8
J. <i>Use and Disclosure of Information and Records</i> .....	8
K. <i>Tax Consequences</i> .....	9
<b>V. Reconsideration of Funding Awards, Funding Award Cancellations.....</b>	<b>10</b>
A. <i>Executive Director Reconsideration</i> .....	10
B. <i>Energy Commission Appeals</i> .....	10

**VI. Disputes of Funding Award Payments ..... 11**

*A. Accounting Office Review ..... 11*

*B. Executive Director Review ..... 12*

*C. Energy Commission Appeals ..... 12*

*A. Recovery of Overpayment ..... 13*

*B. Fraud and Misrepresentation ..... 13*

**VIII. Arbitration ..... 13**

**Glossary of Terms ..... 15**

# I. Introduction

The California Energy Commission has developed this *Overall Program Guidebook for the Renewable Energy Program (Overall Program Guidebook)* to implement and administer its Renewable Energy Program under Senate Bill 1038<sup>1</sup> and Senate Bill 1250.<sup>2</sup> These laws, along with the Reliable Electric Service Investments Act,<sup>3</sup> extend the collection of a nonbypassable system benefit charge initiated in 1998 under Assembly Bill 1890<sup>4</sup> and authorize the expenditure of funds collected to support existing, new, and emerging renewable resources. The goal of these laws is to establish a competitive, self-sustaining renewable energy supply for California while increasing the near-term quantity of renewable energy generated within the state.

The *Overall Program Guidebook* governs the Renewable Energy Program and its various program elements under the above laws, and helps interested applicants apply for program funds. The Energy commission has adopted five separate guidebooks to implement the Renewable Energy Program. These guidebooks are as follows:

- *Overall Program Guidebook*
- *Existing Renewable Facilities Program Guidebook*
- *Emerging Renewables Program Guidebook*
- *New Solar Homes Partnership*<sup>5</sup>
- *Consumer Education Program Guidebook*

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1 Senate Bill 1038; (Chapter 515, Statutes of 2002). 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 (Chapter 666, Statutes of 2003).

2 Senate Bill 1250 (Chapter 512, Statutes of 2006). SB 1250 amends pertinent provisions in Public Resources Code Sections 25740 through 25751.

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

4 Assembly Bill 1890 (Chapter 854, Statutes of 1996).

5 Funding for the New Solar Homes Partnership is provided through the Energy Commission's Renewable Resource Trust Fund pursuant to SB 107, which enacts Public Resources Code Section 25744.5 and authorizes the allocation and use of funding available for emerging renewable technologies under Public Resources Code Sections 25744 and 25751 to fund photovoltaic and solar thermal electric systems in accordance with the eligibility requirements established under Senate Bill 1 (Chapter 132, Statutes of 2006). Because of this, the New Solar Homes Partnership is considered an element within the Energy Commission's Renewable Energy Program umbrella and is subject to the general administrative requirements of this *Overall Program Guidebook*.

To qualify for funding under the Renewable Energy Program, 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 this guidebook additional information about the Renewable Energy Program or its various program elements is required, please visit the Energy Commission's website or contact the Energy Commission's Call Center.

website: [www.energy.ca.gov/renewables/](http://www.energy.ca.gov/renewables/)

Call Center E-mail: [Renewable@energy.ca.gov](mailto:Renewable@energy.ca.gov)

Call Center Phone: (800) 555-7794

## II. General Provisions

### A. Guidelines

These guidelines shall be known as the *Renewable Energy Program Guidelines* and may be referred to as the Guidelines. The Guidelines comprise five 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, available funding, 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 Renewables Program and identifies eligible applicants, eligible renewable energy systems, available funding, and specific administrative procedures for receiving funding under this program element.
- *New Solar Homes Partnership Guidebook*. This guidebook describes the eligibility requirements specific to the New Solar Homes Partnership and identifies eligible applicants, eligible renewable energy systems, available funding, and specific administrative procedures for receiving funding under this program element.
- *Consumer Education Program 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.

The Renewable Energy Program originally included seven guidebooks, including the *New Renewable Facilities Program Guidebook*. The *New Renewable Facilities Program Guidebook* described the eligibility requirements specific to the New Renewable Facilities Program element of the Renewable Energy Program. This program element ended on January 1, 2008, in accordance with SB 1036, which repealed the Energy Commission's authority to award funding under the New Renewable Facilities Program to cover the above-market costs of RPS-related contracts, and transferred these responsibilities to the California Public Utilities Commission. Also, the *Overall Program Guidebook* originally included information and requirements that applied to applicants seeking certification for California's Renewables Portfolio Standard. However, this information and requirements have been transferred to the Energy Commission's *Renewables Portfolio Standard Eligibility Guidebook*, are no longer included in the *Overall Program Guidebook*.



## **B. Authority**

These Guidelines are adopted pursuant to Public Resources Code Section 25747, Subdivision (a), which directs the Energy Commission to adopt Guidelines governing the funding programs authorized by Public Resources Code Sections 25740 through 25751. 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).<sup>6</sup>

## **C. Application**

These Guidelines govern any funding available under the Renewable Energy Program or any of the program elements starting January 1, 2007. Any funding awarded before this date from the Renewable Energy Program — including any funding from the Existing Renewable Facilities Program, New Renewable Facilities Program, Emerging Renewables Program, or Consumer Education Program — shall be subject to the adopted Guidelines applicable at that time.

These Guidelines do not govern the certification of eligible renewable energy resources for the RPS, or any other aspect of the RPS program.

## **D. Interpretation**

Nothing in these Guidelines shall be construed to abridge the powers or authority of the Energy Commission or any Energy 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.

## **E. Effective Date**

These Guidelines shall take effect once adopted by the Energy Commission at a publicly noticed business meeting pursuant to Public Resources Code Section 25747, Subdivision (a). The Guidelines may be given retroactive effect as specified by the Energy Commission and according to its statutory authority.

## **F. Substantive Changes**

The Energy Commission may make substantive changes to these Guidelines pursuant to Public Resources Code Section 25747, Subdivision (a). Substantive changes shall take effect once adopted by the Energy Commission at a publicly noticed business meeting with no fewer than 10 days public notice. Substantive changes include, but are not limited to, the following:

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<sup>6</sup> 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.

1. Changes in the eligibility or evaluation criteria.
2. Changes to funding or incentives levels.
3. Reallocation of funds between program elements.

## **G. Definitions**

The terms defined below are used repeatedly throughout this *Overall Program Guidebook*. For reference a glossary of pertinent terms used in the program element guidebooks is provided at the end of this guidebook.

1. "Awardee" – An individual or entity awarded or reserved grant funding pursuant to these *Guidelines*.
2. "Billing Month" – The period coinciding with a calendar month in which an awardee is entitled to receive a payment pursuant to the awardee's funding award.
3. "Energy Commission" – State Energy Resources Conservation and Development Commission. Also referred to as the California Energy Commission.
4. "Funding Award" – An award or reservation of grant funding made under the Renewable Energy Program pursuant to these *Guidelines*.
5. "Guidelines" – The Guidelines governing the Renewable Energy Program. These Guidelines include the following:
  - *Overall Program Guidebook*.
  - *Existing Renewable Facilities Program Guidebook*.
  - *Emerging Renewables Program Guidebook*.
  - *New Solar Homes Partnership Guidebook*.
  - *Consumer Education Program Guidebook*.
6. "Renewable Resource Trust Fund" – The fund created in the State Treasury pursuant to Public Resources Code Section 25751 and composed of the following accounts:
  - Existing Renewable Resources Account.
  - Emerging Renewable Resources Account.
  - Renewable Resources Consumer Education Account.
7. "Substantive Changes" – Changes to these Guidelines that affect an individual's or an entity's ability to qualify for a funding award pursuant to these Guidelines, or affect the award amount of any awardee.

### **III. Program Funding**

#### **A. Existing Renewable Facilities Program**

An estimated \$72,180,000 is available for the Existing Renewable Facilities Program element during the five-year period commencing January 1, 2007. This estimated funding is composed of the following:

- Ten percent (10 percent) of the funds deposited into the Renewable Resource Trust Fund from January 1, 2007, through December 31, 2007, pursuant to SB 1250, about \$14,580,000.<sup>7</sup>
- Twenty percent (20 percent) of the funds deposited into the Renewable Resource Trust Fund from January 1, 2008, through December 31, 2011, pursuant to SB 1036, about \$57,600,000.<sup>8</sup>

#### **B. Emerging Renewables Program**

An estimated \$282,195,000 is available for the Emerging Renewables Program and New Solar Homes Partnership elements during the five-year period commencing January 1, 2007. This estimated funding is composed of the following:

- Thirty seven and one-half percent (37.5 percent) of the funds deposited into the Renewable Resource Trust Fund from January 1, 2007, through December 31, 2007, pursuant to SB 1250, about \$54,675,000.
- Seventy nine percent (79 percent) of the funds deposited into the Renewable Resource Trust Fund from January 1, 2008, through December 31, 2011, pursuant to SB 1036, about \$227,520,000.

#### **C. Consumer Education Program**

An estimated \$4,338,000 is available for the Consumer Education Program element during the five-year period commencing January 1, 2007. This estimated funding is composed of the following:

- One percent (1 percent) of the funds deposited into the Renewable Resource Trust Fund from January 1, 2007, through December 31, 2007, pursuant to SB 1250, about \$1,458,000.
- One percent (1 percent) of the funds deposited into the Renewable Resource Trust Fund from January 1, 2008, through December 31, 2011, pursuant to SB 1036, about \$2,880,000.

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<sup>7</sup> Assumes deposits of \$145,800,000 for the period January 1, 2007, through December 31, 2007.

<sup>8</sup> Assumes deposits of \$72,000,000 annually for the period January 1, 2008, through December 31, 2011.

## **IV. Applying for Program Funds**

### **A. Applicant Eligibility**

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

### **B. Applications for Program Funding**

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

### **C. Approval of Funding Awards**

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

### **D. Cancellation of Funding Awards**

The Energy Commission, through its Executive Director, may cancel the funding of any awardee that changes its basis for funding eligibility under these Guidelines and no longer satisfies the requisite eligibility criteria. The Executive Director shall notify the awardee in writing of the basis for canceling the awardee's funding award, 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 before the effective date of the cancellation to provide the awardee an opportunity to file a petition for reconsideration under Section V.

### **E. Funding Award Invoicing**

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

### **F. 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.

1. The Executive Director determines, under Subsection D of Section IV, that the awardee is no longer eligible to receive a funding award.
2. The awardee fails to properly invoice the Energy Commission as specified in Subsection E of Section IV.
3. An audit conducted pursuant to Subsection H of Section IV reveals an awardee's invoice, submitted under Subsection E of Section IV, is overstated, inaccurate, or unsupported.

4. The awardee fails to repay the Energy Commission for any overpayment the awardee received as specified in the written notice issued under Subsection H of Section IV.
5. Based on an investigation conducted under Section VII, Subsection B, the Executive Director determines that the awardee has misstated, falsified, or misrepresented information in applying for a funding award, in invoicing for a funding award payment, or in reporting any information required by these Guidelines.

## **G. 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 Energy Commission, along with the necessary invoices and supporting documentation as specified in the program element guidebooks.

## **H. Audits**

The Energy Commission or its authorized agents may audit any awardee to verify the accuracy of any information included as part of an application for funding, invoice for funding award payment, or report required under these Guidelines. As part of an audit, an awardee may be required to provide the Energy Commission or its authorized agents with 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 Energy Commission or its authorized agents to verify 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 Energy Commission shall 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 may be cancelled pursuant to Subsection D of Section IV and enforcement actions initiated pursuant to Section VII.

## **I. Record Retention**

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

## **J. Use and Disclosure of Information and Records**

The Energy Commission or its authorized agents may use any information or records submitted to the Energy 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 or related Energy Commission program, and prepare necessary reports as required by law. The information and records include, but are not limited to, applications for funding, 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 the public pursuant to the California Public Records Act (Government Code Section 6250, et seq.). Personal information, such as taxpayer identification or social security numbers, will not be disclosed to 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 Energy Commission's website or other means, as the Energy Commission deems appropriate.

If, as part of any application for funding, invoice for payment, required report, or audit, the Energy 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 confidential pursuant to the Energy Commission's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505.

## **K. Tax Consequences**

Awardees are responsible for any federal and state tax associated with the receipt of funding award payments. The Energy Commission will report funding award payments to the Internal Revenue Service and issue the awardee an informational form (for example, 1099-Misc) when required to do so by law. To process funding award payments for tax purposes, awardees must complete a Payee Data Record form to provide the Energy 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 under Subsection G 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**

Pursuant to Public Resources Code Section 25747, Subdivision (c), applicants and awardees of funding may appeal the Energy Commission's denial, reduction, cancellation, or revocation of funding under these Guidelines. Appeals will be considered as provided in this section only upon a showing that factors other than those described in these Guidelines were applied by the Energy Commission in denying, reducing, canceling, or revoking funding.

### **A. Executive Director Reconsideration**

An applicant or awardee may petition the Executive Director for reconsideration if the application for funding was denied or their funding award reduced or cancelled. The petition for reconsideration shall be in writing and shall be submitted, together with any supporting documentation, to the Office of the Executive Director at the following address within 30 days of the date of the notice of funding award, cancellation, reduction, or revocation.

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

The petition shall specify the basis for the appeal, state why the petitioner believes the funding award denial, cancellation, reduction, or revocation is improper given the eligibility criteria for the funding award, 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 30 days of receiving a complete petition, the Office of the Executive Director shall issue a decision based on the petition and the written response of Energy Commission staff.

If petitioner disagrees with the decision of the Office of the Executive Director, the petitioner may appeal the decision to the Energy Commission in accordance with Subsection B of this section.

### **B. Energy Commission Appeals**

Within 30 days of the date of the decision of the Office of the Executive Director, the appealing party may file a letter of appeal to the Energy Commission. The letter of appeal shall be submitted to the Energy Commission and processed as a request for investigation pursuant to the Energy Commission's regulations for complaints and investigations, Title 20, California Code of Regulations, Section 1230, et seq. The letter of appeal shall include the information specified in Title 20, California Code of Regulations, Section 1231 (b). In place of the information specified in Section 1231 (b)(2), (b)(4), and (b)(6), the letter of appeal shall identify the eligibility criteria in the Guidelines that the appealing party believes were applied

incorrectly in denying, reducing, canceling, or revoking funding. Energy Commission staff shall be designated the respondent in the letter of appeal.

In addition to the information required by Title 20, California Code of Regulations, Section 1231, the letter of appeal shall include a copy of the petition for reconsideration and all supporting documentation, and a copy of the written decision of the Office of the Executive Director.

An applicant or awardee seeking to file a petition for reconsideration or appeal pursuant to this section may contact the Public Adviser's Office for information on the filing process. The contact information for the Public Adviser's Office is:

California Energy Commission  
Public Adviser's Office  
1516 9th Street, MS-12  
Sacramento, CA 95814-5512  
E-mail: [PublicAdviser@energy.ca.gov](mailto:PublicAdviser@energy.ca.gov)

## **VI. Disputes of Funding Award Payments**

Pursuant to Public Resources Code Section 25747, Subdivision (c), awardees may appeal the Energy Commission's payment of a funding award payment under these Guidelines. Appeals will be considered only as provided in this section and upon a showing that factors other than those described in these *Guidelines* were applied by the Energy Commission in making, reducing, or denying a funding award payment.

### **A. Accounting Office Review**

Awardees may dispute the amount of a funding award payment by filing a written claim with the Energy Commission's Accounting Office. Awardees shall file the claim within 30 days of the date of the payment, the amount of which is disputed, or a notice from the Energy 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 Energy 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. If the awardee disagrees with the decision of the Accounting Office, the



awardee may seek reconsideration with the Office of the Executive Director in accordance with Subsection B of this section.

## **B. Executive Director Review**

Within 30 days of the date of the written decision of the Accounting Office, the awardee may file a letter of reconsideration stating why the written decision is unacceptable. The letter shall be filed with the Office of the Executive Director, along with a copy of the original dispute claim, supporting documents, and the written decision of the Accounting Office, at the following address:

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

The Office of the Executive Director 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. If the awardee disagrees with the decision of the Office of the Executive Director, the awardee may appeal to the Energy Commission in accordance with Subsection C of this section.

## **C. Energy Commission Appeals**

Within 30 days of the date of the decision of the Office of the Executive Director, the awardee may file a letter of appeal with the Energy Commission. The letter of appeal shall be submitted to the Energy Commission and processed as a request for investigation pursuant to the Energy Commission's regulations for complaints and investigations, Title 20, California Code of Regulations, Section 1230, et seq. The letter of appeal shall include the information specified in Title 20, California Code of Regulations, Section 1231 (b). In place of the information specified in Section 1231 (b)(2), (b)(4), and (b)(6), the letter of appeal shall identify the criteria in the *Guidelines* and the funding award that awardee believes were applied incorrectly in making, reducing, or denying the funding award payment. Energy Commission staff shall be designated the respondent in the letter of appeal.

In addition to the information required by Title 20, California Code of Regulations, Section 1231, the letter of appeal shall include a copy of the original dispute claim and supporting documents, and copies of the Accounting Office and Office of the Executive Director written decisions.

An awardee seeking to file a letter of reconsideration or appeal pursuant to this section may contact the Public Adviser's Office for information on the filing process. The contact information for the Public Adviser's Office is:

California Energy Commission  
Public Adviser's Office  
1516 9th Street, MS-12  
Sacramento, CA 95814-5512  
email: [PublicAdviser@energy.ca.gov](mailto:PublicAdviser@energy.ca.gov)

## **VII. Enforcement Action**

### **A. Recovery of Overpayment**

The Energy Commission may direct the Energy 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 Executive Director determines the awardee or former awardee was not otherwise entitled to receive.

### **B. Fraud and Misrepresentation**

The Executive Director may initiate an investigation of any awardee that Executive Director has reason to believe may have misstated, falsified, or misrepresented information in applying for funding, invoicing for a funding award payment, or reporting any information required by these Guidelines. Based on the results of the investigation, the Executive Director may take any action deemed appropriate, including, but not limited to, cancellation of the funding award, recovery of any overpayment, and, with the concurrence of the Energy Commission, recommending the Attorney General initiate an investigation and prosecution pursuant to Government Code Section 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 appeal process specified in Section VI, the awardee and the Energy 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 Energy Commission renders a decision through the appeal process specified in Section 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 Energy 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 Energy Commission as follows:

- The AAA's administrative fees shall be borne equally by the parties.
- The expense of a stenographer shall be borne by the party requesting a stenographic record.
- Witness expenses for either side shall be paid by the party producing the witness.
- Each party shall bear the cost of its own travel expenses.
- 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.

**Balancing Authority** — as defined in Public Utilities Code Section 399.12, Subdivision (b), to mean the responsible entity that integrates load-serving entity resource plans ahead of time, maintains load-interchange-generation balance within a balancing authority area, and supports interconnection frequency in real time.

**Billing month** — the period coinciding with a calendar month for which an awardee of the Existing Renewable Facilities Program may receive an incentive payment under these Guidelines.

**Biodiesel** — a renewable fuel derived in whole or in part from a biomass feedstock such as agricultural crops or agricultural wastes and residues, including but not limited to animal wastes, remains and tallow; food wastes, recycled cooking oils, and pure vegetable oils; or from an eligible solid waste conversion process using municipal solid waste.

**Biogas** — includes digester gas, landfill gas, and any gas derived from an eligible biomass feedstock. (Also see pipeline biomethane.)

**Biomass** — any organic material not derived from fossil fuels, including, but not limited to, agricultural crops, agricultural wastes and residues, waste pallets, crates, dunnage, manufacturing, construction wood wastes, landscape and right-of-way tree trimmings, mill residues that result from milling lumber, rangeland maintenance residues, biosolids, sludge derived from organic matter, wood and wood waste from timbering operations, and any materials eligible for “biomass conversion” as defined in Public Resources Code Section 40106.

Agricultural wastes and residues include, but are not limited to, animal wastes, remains, and tallow; food wastes; recycled cooking oils; and pure vegetable oils.

Landscape or right-of-way tree trimmings include all solid waste materials that result from tree or vegetation trimming or removal to establish or maintain a right-of-way on public or private land for the following purposes:

- 1) For the provision of public utilities, including, but not limited to, natural gas, water, electricity, and telecommunications.
- 2) For fuel hazard reduction resulting in fire protection and prevention.
- 3) For the public’s recreational use.

**Biomethane** — See Pipeline biomethane.

**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.

**Central station facility** — an electric generation facility that interconnects to the electricity transmission system.

**Commercial operation** — the date, as determined by the system operator, on which a renewable energy generation facility ceases to generate electricity for testing purposes and first generates electricity solely for the purpose of consumption 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 commercial operation date as defined in the initial power purchase contract with a retailer seller, or other load-serving entity.

**Commercially available** — for 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.

**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)

**Conduit hydroelectric facility** — as defined in Public Utilities Code Section 399.12, Subdivision (a), to mean a facility for the generation of electricity that uses only the hydroelectric potential of an existing pipe, ditch, flume, siphon, tunnel, canal, or other man-made conduit that is operated to distribute water for a beneficial use. The term "existing" is defined as built before January 1, 2008, the effective date of AB 809 (Chapter 684, Statutes 2007).

**Control Area** — an electric power system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other control areas and contributing to frequency regulation of the interconnection.

**Conventional power source** — as defined in Public Utilities Code Section 2805, refers to power derived from nuclear energy, the operation of a hydropower facility greater than 30 megawatts

(MW), or the combustion of fossil fuels, unless cogeneration technology, as defined in Public Resources Code Section 25134, is employed in the production of such power.

**Digester gas** — gas from the anaerobic digestion of organic wastes, including, but not limited to animal wastes, remains, tallow, and biosolids.

**Distributed generation facility** — a small-scale electricity generation facility that is interconnected to a distribution network and is generally 20 MW or smaller. Distributed generation facilities may serve on-site load or off-site load or both.

**Distribution network** — utility-controlled network of electrical lines that interconnect homes, buildings, and other customer locations to the electricity system. Some of the electricity customers may be customer-generators with electricity generation facilities that serve on-site, offsite, or both on-site and offsite electricity loads. The voltage of distribution lines varies by utility in California. For example, SCE's distribution network includes 66 kilovolt (kV) and 115 kV systems. However, SDG&E systems of 138 kV and 69 kV are considered transmission and they are controlled by the California ISO. Similarly, much of PG&E's 115 kV system is also considered transmission.

**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 & Electric Company, Southern California Edison Company, PacifiCorp, Liberty Energy-California Pacific Electric Company (formerly Sierra Pacific Power Company), Bear Valley Electric Service (a division of Golden State Water Company), or other electrical corporations as defined by Public Utilities Code Section 218. Also referred to as "investor-owned utilities."

**Eligible renewable energy resource** — as defined in Public Utilities Code Section 399.12, Subdivision (e), to mean an electrical generating facility that meets the definition of "renewable electrical generation facility" in Public Resources Code Section 25741, and subject to the limitations of Public Utilities Code Section 399.12, Subdivision (e), and Section 399.12.5.

**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 before 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 consisting of hydrocarbon constituents, including coal, petroleum, or natural gas, occurring in and extracted from underground deposits, and mixtures or by-products 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 the Emerging Renewables 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.

***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 the kinetic energy of flowing or falling nonmarine water to turn a turbine generator. See “small hydroelectric.”

***Investor-owned utility (IOU)*** — synonymous with “electrical corporations” as defined herein.

For the *Existing Renewable Facilities Program Guidebook*, *New Solar Homes Partnership Guidebook*, and the *Emerging Renewables Program Guidebook*, refers collectively to Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Bear Valley Electric Service (a division of Golden State Water Company), the four electrical corporations whose ratepayers are subject to a surcharge for funding various public goods programs, including the Energy Commission’s Renewable Energy Program.

***Kilowatt (kW)*** — 1,000 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 224.3 to mean a municipality or municipal corporation operating as a "public utility" furnishing electric service as provided in Section 10001 of the Public Utilities Code, a municipal utility district furnishing electric service formed pursuant to Division 6 (commencing with Section 11501 of the Public Utilities Code), a public utility district furnishing electric services formed pursuant to the Public Utility District Act set forth in Division 7 (commencing with Section 15501 of the Public Utilities Code), an irrigation district furnishing electric services formed pursuant to the Irrigation District Law set forth in Division 11 (commencing with Section 20500) of the Water Code, or a joint powers authority that includes one or more of these agencies and that owns generation or transmission facilities, or furnishes electric services over its owner's or its member's electric distribution system.

***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)*** — 1,000 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. Also referred to as "local publicly owned electric utility."



**Nameplate Capacity** — the maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer.

**NERC e-Tag** — named for the North American Electric Reliability Corporation (NERC), the entity responsible for the implementation of the first energy tagging process, a NERC e-Tag is an electronic record that contains the details of a transaction to transfer electricity from a seller to a buyer where the electricity is scheduled for transmission across one or more balancing authority area boundaries.

**Net metering** — contractual agreement or tariff wherein the system owner/generator produces more electricity than is needed to serve the on-site electrical load, and the surplus electricity is supplied to the electrical distribution grid. The owner/generator's utility meter records the difference, or net, between what the utility supplies to the owner/generator and what the owner/generator supplies to the grid.

**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** — See "Distributed Generation."

**Owned by electrical corporations or local publicly owned electric utilities** — for the Emerging Renewables 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 Emerging Renewables Program.

**PG&E** — Pacific Gas and Electric Company

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

**Pipeline biomethane** — biogas that has been upgraded or otherwise conditioned such that it meets the gas quality standards applicable to the natural gas transportation pipeline system into which the biogas is first accepted for transportation. The pipeline owner/operator must have written gas quality standards that are publicly available. Also referred to as biomethane.

**Placed in service** — for 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 that may be structured to provide payments based on both fixed and/or variable factors.

**Procure** — as defined in Public Utilities Code Section 399.12, Subdivision (f), means to acquire through ownership or contract.

**Procurement entity** — as defined in Public Utilities Code Section 399.12, Subdivision (g), means any person or corporation authorized by the California Public Utilities Commission to enter into contracts to procure eligible renewable energy resources on behalf of customers of a retail seller pursuant to Public Utilities Section 399.13, Subdivision (f).

**Project** — For 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 the New Solar Homes Partnership, “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 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, which were developed to test and compare PV systems as part of the PVUSA (Photovoltaics for Utility Scale Applications) project. PTCs are 1,000 Watts per square meter solar irradiance, 20 degrees C air temperature, and wind speed of 1 meter per second at 10 meters above ground level. PV manufacturers use Standard Test Conditions, or STC, to rate their PV products. STC are 1,000 Watts per square meter solar irradiance, 25 degrees C cell temperature, air mass equal to 1.5, and ASTM G173-03 standard spectrum. The PTC rating, which is lower than the STC rating, is generally recognized as a more realistic measure of PV output because the test conditions better reflect “real-world” solar and climatic conditions, compared to the STC rating.

**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 et seq.

**Public information** — any information in the Energy 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, Section 2505 et seq., and may be disclosed pursuant to the

California Public Records Act (Government Code Section 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 public goods charge*** — as defined in Public Resources Code Section 25741 Subdivision(c), to mean that portion of the nonbypassable system benefits charge required to be collected to fund renewable energy and to be transferred to the Renewable Resource Trust Fund pursuant to the Reliable Electric Service Investments Act (Article 15 [commencing with Section 399] of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

***Renewables Portfolio Standard (RPS)*** — refers to California’s Renewables Portfolio Standard as established in Public Utilities Code Section 399.11, et seq. “Renewables portfolio standard” is defined in Public Utilities Code Section 399.12, Subdivision (i), to mean the specified percentage of electricity generated by eligible renewable energy resources that a retail seller or local publicly owned electric utility is required to procure pursuant to Public Utilities Code Section 399.11 et seq. Under the RPS, a retail seller or local publicly owned electric utility must increase its total procurement of eligible renewable energy resources so that 33 percent of its retail sales are procured from eligible energy resources no later than December 31, 2020.

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

***Residential building*** – for the New Solar Homes Partnership includes a house, condominium, apartment, or other residential unit.

***Retail seller*** — as defined in Public Utilities Code Section 399.12, Subdivision (j), to mean an entity engaged in the retail sale of electricity to end-use customers located within the state. 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 the Water Code (commencing with Section 80000).

*SCE* — Southern California Edison Company

*SDG&E* — San Diego Gas & Electric Company

*Self-generation* — See "Distributed Generation."

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

*Small hydroelectric* — an electrical generation facility employing one or more hydroelectric turbine generators, the sum capacity of which does not exceed 30 megawatts

*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.

*System operator* — entity responsible for the efficient use and reliable operation of the transmission grid, or a local publicly owned electric utility that does not use a system operator.

*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.

*Watt* — a unit of electrical power, equal to the power developed in a circuit by a current of one ampere flowing through a potential difference of one volt.

*WECC interconnection* — the substation where radial lines from a given power plant first interconnect to the WECC 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 nondiscriminatory 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.