



*RENEWABLE
ENERGY
PROGRAM*

**CALIFORNIA
ENERGY
COMMISSION**

NEW RENEWABLE FACILITIES PROGRAM

GUIDEBOOK

March 2007

CEC-300-2007-002-CMF



Arnold Schwarzenegger, *Governor*

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These guidelines were formally adopted by the California Energy Commission on April 21, 2004, pursuant to Public Utilities Code Section 383.5, Subdivision (h) and subsequently revised pursuant to this authority and Public Resources Code Section 25747, Subdivision (a), on May 19, 2004, April 26, 2006, and March 14, 2007.

The requirements in this guidebook are based on applicable law, the *Renewables Portfolio Standard Decision on Phase 1 Implementation Issues* (publication number 500-03-023F), the *Renewables Portfolio Standard Decision on Phase 2 Implementation Issues* (publication number 500-03-049F), staff analysis, advice from the Energy Commission's technical support contractor, and public input.

Abstract

The New Renewable Facilities Program Guidebook describes the requirements to apply for and receive production incentives from the New Renewable Facilities element of the Energy Commission's Renewable Energy Program. These production incentives are intended to cover the above-market costs of meeting California's Renewable Portfolio Standard goal of obtaining 20 percent of the state's electricity from renewable resources by 2010. The Guidebook outlines eligibility and legal requirements, details how awards will be made, and describes invoicing procedures, and includes necessary forms and instructions for program participants.

Key Words

renewable energy, supplemental energy payment, renewables portfolio standard, Funding Confirmation Letter, repowered, eligibility, SEP Award Agreement, SEP

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I - Introduction

The California Energy Commission developed this *New Renewable Facilities Program Guidebook* to implement and administer its responsibilities to distribute public goods charge funds for eligible facilities to support the Renewables Portfolio Standard (RPS) pursuant to Senate Bill 1038,¹ Senate Bill 1078,² and Senate Bill 107.³ The guidebook describes the requirements to qualify for and receive production incentives, referred to as supplemental energy payments (SEPs), from the New Renewable Facilities Program (NRFP) element of the Energy Commission's Renewable Energy Program.

Senate Bill 1078 and Senate Bill 107 direct the Energy Commission to "allocate and award supplemental energy payments" to "eligible renewable energy resources to cover above-market costs of renewable energy." The California Public Utilities Commission (CPUC), in consultation with the Energy Commission, will determine what constitutes these above-market costs by establishing a market price referent.

The Energy Commission will award SEPs to eligible renewable energy facilities through the NRFP, which is allocated 51.5 percent of the renewable energy public goods charge (PGC) funds collected and allocated under Senate Bill 1250⁴ and Senate Bill 107. This amounts to approximately \$386.25 million over a five-year period starting January 1, 2007.⁵ Approximately \$347.625 million is available for SEPs from PGC funds collected over the prior five-year period, for a total of approximately \$733.875 million.

SEPs will be available to cover the appropriate above-market costs of renewable resources selected by retail sellers to fulfill their RPS obligations. For this guidebook, "retail sellers" includes Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), and Southern California Edison Company (SCE) and energy service providers (ESPs) and community choice aggregators (CCAs). PG&E, SDG&E and SCE are also referred to as "electrical corporations" or "Investor-Owned Utilities" (IOUs). The terms used here are defined in the glossary included in the *Overall Program Guidebook for the Renewable Energy Program (Overall Program Guidebook)*.

The applicable law contains the following specific directions for awarding SEPs. The Energy Commission:

¹ SB 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 SB 1078; Chapter 516, Statutes of 2002. 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 (Chapter 731, Statutes of 2003), and Assembly Bill 200 (Chapter 50, Statutes of 2005), respectively.

³ SB 107; Chapter 464, Statutes of 2006. SB 107 amends pertinent provisions in Public Resources Code Sections 25740 through 25751 and Public Utilities Code Sections 399.11 through 399.16.

⁴ SB 1250; Chapter 512, Statutes of 2006. SB 1250 amends pertinent provisions in Public Resources Code Sections 25620 through 25750 and Public Utilities Code Sections 381 through 399.9.

⁵ Assumes deposits of \$150,000,000 annually into the Energy Commission's Renewable Resource Trust Fund beginning January 1, 2007.

- Shall make payments for no longer than 10 years.
- Shall reduce or terminate SEPs for facilities that either fail to commence or maintain operations in accordance with contractual obligations or that fail to meet eligibility requirements.
- Shall manage the funds equitably so that retail sellers may meet their RPS obligations.
- Shall allocate and award SEPs to a project selected by an electrical corporation only if it results from a competitive solicitation approved by the CPUC.
- Shall allocate and award SEPs to a project selected by another retail seller (non-electrical corporation) only if the CPUC determines the selection is consistent with the results of a least-cost and best-fit process (LCBF process), and the SEPs are reasonable in comparison to those paid under similar contracts with other retail sellers.
- May establish payment caps.
- May require an applicant competing for funding to post a forfeitable bid bond or other financial guaranty of the applicant's good faith intent to move forward with the facility expeditiously.
- May provide preference to facilities that provide tangible, demonstrable benefits to communities with a plurality of minority or low-income populations.

The law further provides that facilities may NOT receive SEPs if the electricity produced is any of the following:

- Sold under an existing long-term contract with an existing in-state electrical corporation if the contract includes fixed energy or capacity payments or if the contract was entered into prior to September 24, 1996, except that incremental electricity from certain repowered or refurbished facilities may qualify for SEPs, as follows: the electricity must be delivered under an electricity purchase contract with an electrical corporation originally entered into before September 24, 1996, and must be above and beyond what is already under contract, as determined in accordance with Public Resources Code Section 25740.5, subdivision (e)(1)(C).
- Used on-site or sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.
- Used to service load that is not subject to the renewable energy public goods charge.

A. Related Publications

The Energy Commission has adopted other guidebooks to address the requirements for receiving funding from other elements of the Renewable Energy Program, as well as guidelines governing the overall administration of the program. The *Overall Program Guidebook* describes how the Renewable Energy Program will be administered and includes information on requirements that apply to all program elements of the Renewable Energy Program.

In addition, the Energy Commission has adopted guidelines governing the eligibility and certification of renewable energy facilities under the RPS. These guidelines are set forth in the *Renewables Portfolio Standard Eligibility Guidebook* and describe the Energy Commission's eligibility guidelines and certification process, including criteria for SEP eligibility. The guidebooks are available online at: www.energy.ca.gov/portfolio/documents/index.html.

To qualify for SEPs under the NRFP, an applicant must satisfy the requirements contained in this *New Renewable Facilities Program Guidebook*, the *Overall Program Guidebook*, and the *Renewables Portfolio Standard Eligibility Guidebook*.

The Energy Commission also provides production incentive payments to eligible existing renewable resources that are not eligible for SEPs but may be eligible for the RPS. For more information, please refer to the *Existing Renewable Facilities Program Guidebook*.

B. Guidebook Organization

This guidebook is organized as follows:

1. Introduction
2. Program Overview
3. Eligibility
4. Prevailing Wage Requirements
5. Multiple Awards
6. Award Determination
7. Eligible Generation
8. Payment Terms
9. Forms and Samples

II - Program Overview

The NRFP is intended to foster the development of new in-state renewable facilities and secure for California the environmental, economic, and reliability benefits these facilities will provide. Towards this end, the NRFP provides funding to eligible in-state renewable facilities. It also provides funding to eligible out-of-state renewable facilities but only under certain conditions as specified in the *Renewables Portfolio Standard Eligibility Guidebook*.

The NRFP provides grant funding in the form of production incentives, referred to as SEPs, to eligible renewable facilities for each kilowatt-hour of eligible electricity they generate. To qualify for funding, applicants must show that their proposed renewable facility meets a number of requirements as specified in Public Resources Code Sections 25740.5, 25741, and 25743 and Public Utilities Code Section 399.13.

First, these facilities must be certified by the Energy Commission as an eligible renewable energy resource for meeting the state's Renewables Portfolio Standard and must also be certified as being eligible for SEPs. Second, these facilities must be selected either by PG&E, SCE, SDG&E or another electrical corporation in a competitive RPS solicitation approved by the CPUC, or by another retail seller, such as an ESP or CCA, as a result of a competitive solicitation process that the CPUC deems is consistent with its LCBF process. Additionally, SEPs for the latter must be reasonable in comparison to those paid under similar contracts with other retail sellers. Any contracts proposed by an electrical corporation are subject to CPUC approval. Retail sellers may award power purchase contracts for renewable power to selected facilities. Alternatively, a facility selected for a contract by a procurement entity that procures electricity on behalf of a retail seller and which has a CPUC-approved contract to sell the electricity to the retail seller may also be eligible for SEPs.

Third, the facilities must begin commercial operations or be repowered on or after January 1, 2005, or such later date as determined by the Energy Commission, with the exceptions that the applicable date for small hydroelectric facilities is January 1, 2006 and the applicable date for conduit hydroelectric facilities is January 1, 2007. Finally, the electricity generated must not be sold under certain long-term contracts with an in-state electrical corporation used on-site, or sold in a manner avoiding competitive transition charge payments. The *Renewables Portfolio Standard Eligibility Guidebook* provides more information on eligibility criteria for RPS certification and SEP eligibility.

A procurement entity is defined as any person or entity that enters into an agreement to procure RPS-eligible electricity on a retail seller's behalf to satisfy the retail seller's RPS procurement obligations. A facility selected by a procurement entity may be eligible for SEPs. For a facility selected by a procurement entity to be eligible for SEPs, the facility must be certified as RPS eligible and eligible for SEPs and must agree to comply with all SEP requirements, including requirements pertaining to California's prevailing wage law. Furthermore, the procurement entity must annually report the amount of energy per month procured from the facility and sold to any California retail seller. The procurement

entity must also agree to be subject to an Energy Commission audit. Some issues related to procurement entities may be decided in future CPUC proceedings, which may in turn require changes to this Guidebook.

Contracts between retail sellers and RPS-eligible facilities, procurement entities, or parties selling electricity for RPS-eligible facilities (“Sellers”) will reflect the energy price bid or negotiated by the applicants in RPS solicitations or LCBF selection processes, measured in cents per kilowatt-hour. If the final negotiated price is above a benchmark price, or market price referent (MPR), established by the CPUC, then the Seller may be eligible to receive SEPs from the NRFP. The Seller must be the facility owner, a procurement entity, or the party with which a retail seller holds a contract for the purchase of power certified by the Energy Commission as SEP-eligible.

The law provides that “Supplemental energy payments awarded to facilities selected by a retail seller or procurement entity . . . shall be paid for no longer than 10 years, but shall, subject to the payment caps . . . [established by the Energy Commission], be equal to the cumulative above-market costs relative to the applicable market price referent at the time of initial contracting, over the duration of the contract with the retail seller or procurement entity.”⁶ SEPs are calculated based on the difference between the final bid or negotiated price and the project-specific MPR. The law allows the Energy Commission to establish payment caps of various kinds (see below) to achieve the goals of the RPS and utilize PGC funds in the most efficient manner.⁷ If a cap is established, a SEP award may be below the amount calculated as cumulative above-market costs over the duration of the contract.

Contract negotiations occur on a case-by-case basis, so the Energy Commission is likely to receive SEP requests one at a time rather than collectively. However, awarding SEPs on a first-come, first-served basis without information on the potential demand for SEPs may result in inefficient use of public funds. Consequently, PG&E, SCE, and SDG&E must provide the Energy Commission with data to inform policy makers about the potential demand for SEP funds before the Energy Commission will consider awarding SEPs to winning bidders from these retail sellers’ RPS solicitations. Within 30 days of the date that the CPUC adopts the MPR, each retail seller must provide data including the price and expected deliveries for each bid received. Additionally, the Energy Commission may require that each retail seller provide updated information for all bids on its short list to support the Energy Commission’s analysis of the potential SEP demand. The Energy Commission will consider applications to hold the above mentioned data confidential pursuant to its regulations for confidential designation, California Code of Regulations, Title 20, Section 2501, et seq.

The Energy Commission will only consider a SEP application after a retail seller executes an eligible contract with a Seller. The final bid price must be above the MPR, and the contract must result from a CPUC-approved selection process with a Seller representing a SEP-eligible facility. The Energy Commission anticipates that further

⁶ Public Resources Code Section 25743(b)(1)(C).

⁷ Public Resources Code Section 25743(b)(1)(A), (E).

refinement of this Guidebook may be needed in conjunction with CPUC decisions addressing procurement entity processes.

If the final bid or negotiated price per kWh is at or below the MPR, then the contract does not qualify for SEPs. When the retail seller files an advice letter to the CPUC requesting approval of the contract, the advice letter will identify whether or not the Seller is seeking SEPs.

If the final bid or negotiated price requires SEPs, then the Seller should apply to the Energy Commission for SEP funding, and the retail seller must provide supplemental information to the Energy Commission regarding the Seller's application. The Energy Commission will review the application to determine whether the facility qualifies for SEPs, the maximum amount of SEPs the facility qualifies for, and whether a cap on available SEPs is necessary. The Energy Commission will send the Seller, retail seller, and CPUC a Funding Confirmation Letter specifying the total amount of SEPs the Energy Commission anticipates awarding to the applicant. If the Funding Confirmation Letter specifies a lesser amount of SEPs than was requested by the Seller, then the retail seller and the Seller have an opportunity to renegotiate and restructure their contract terms based on SEP availability.

When the Energy Commission issues a Funding Confirmation Letter, the Energy Commission will disclose information on its web site identifying the name of the Seller, the procurement entity (if any), the procuring retail seller, and the total anticipated SEP award amount.

Once the contract is approved by the CPUC and the facility completes any required environmental review for the renewable facility under the National Environmental Policy Act and/or the California Environmental Quality Act, the Energy Commission may enter into a grant agreement with the Seller. This grant agreement is referred to as a "Supplemental Energy Payment Award Agreement." The SEP Award Agreement will be considered for adoption by the Energy Commission at a business meeting and once adopted will be made publicly available. Once the renewable facilities are constructed and commence commercial operations, the applicants may submit monthly invoices to the Energy Commission to begin receiving SEPs under their NRFP grants.

III - Eligibility

A checklist for SEP eligibility is shown below, followed by a description of each item.

- Facility is certified/pre-certified as an eligible renewable energy resource by the Energy Commission.

To be eligible for SEPs through a Funding Confirmation Letter, a facility must be either pre-certified or certified by the Energy Commission as an eligible renewable resource qualifying for the RPS and for SEPs. However, to be awarded a SEP Award Agreement, the facility must be certified as eligible for the RPS and SEPs. The certification process is described in the *Renewables Portfolio Standard Eligibility Guidebook*.

Only new or repowered facilities as defined in the *Renewables Portfolio Standard Eligibility Guidebook* may be eligible for SEPs. Existing facilities may be eligible to receive production incentive payments from the Energy Commission's Existing Renewable Resources Program. For more information, please refer to the *Existing Renewable Facilities Program Guidebook*.

- Facility/facility owner has met all fuel-specific eligibility and/or reporting requirements described in the *Renewables Portfolio Standard Eligibility Guidebook*.

- Facility/facility owner has either:

- o A power purchase contract for at least 10 years with an electrical corporation that has been approved by the CPUC and resulted from a CPUC-approved RPS solicitation, or with another retail seller that resulted from a competitive solicitation that the CPUC has deemed consistent with its LCBF process; or,
- o A power purchase contract for at least 10 years with a procurement entity that procures RPS eligible electricity on behalf of a retail seller and has a CPUC-approved contract with the retail seller.

The Energy Commission will pay SEPs to the facility or to the party with which a retail seller holds a contract for the purchase of power generated by a certified new or repowered renewable energy facility under the provisions of the RPS.

If the contracting entity is not the owner of the certified renewable energy facility, it must identify and establish its rights to sell the power generated by the certified facility. Further, any renewable energy facility that sells its generation to a contracting entity will be obligated to document the facility's eligibility and generation.

To receive SEPs, applicants must be selected as a winning bidder in a CPUC-approved RPS solicitation of an electrical corporation or in a CPUC-approved LCBF

process of another retail seller. And, the applicant must enter into a power purchase contract with the retail seller conducting that selection process or with a procurement entity procuring electricity for the retail seller. In addition, the power purchase contract must be approved by the CPUC. Parties with bilateral contracts signed outside of a CPUC-approved RPS solicitation are not eligible for SEPs.

- Facility owner does not have an existing Senate Bill 90⁸ funding award for the renewable energy facility, or
- Facility owner has an existing Senate Bill 90 funding award for the renewable facility and agrees to relinquish that award to be eligible for SEPs. If so, facility must specify that it has either:
 - ✓ Commenced commercial operations and received Senate Bill 90 payments, or
 - ✓ Not commenced commercial operations and not received Senate Bill 90 payments.

Facilities cannot receive both SEPs and Senate Bill 90 award payments. A facility with a conditional funding award from the Energy Commission's New Renewable Resources Account under Senate Bill 90 can participate in an RPS solicitation to secure a power purchase contract but must relinquish its Senate Bill 90 award if it wishes to receive SEPs.

Applicants with Senate Bill 90 awards whose facilities have not commenced commercial operations must state their intention to either (1) keep their Senate Bill 90 award and agree to be ineligible for SEPs or (2) relinquish the Senate Bill 90 award and compete for potential SEPs. Applicants with Senate Bill 90 awards whose facilities are already online must do the same, with the further understanding that any funding awarded through SEPs will be reduced by the amount of Senate Bill 90 payments already made to these facilities.

A winning applicant that chooses to keep its Senate Bill 90 award can receive payments under the terms and conditions of the Senate Bill 90 award but cannot receive SEPs resulting from the RPS solicitation. A winning applicant that chooses to relinquish its Senate Bill 90 award and any payments already made under that award must do so once it executes a contract with a retail seller. This must be done even if the bidder does not ultimately qualify for SEPs because its bid was below the market price referent for that solicitation. If an applicant does not secure a contract under the RPS solicitation, however, the applicant will not be required to relinquish its Senate Bill 90 award.

Winning bidders in an RPS solicitation or LCBF process that choose to keep their Senate Bill 90 awards must comply with the Energy Commission's RPS

⁸ Chapter 905, Statutes of 1997; as codified in former Public Utilities Code Sections 383.5 and 445.

requirements, including the RPS tracking and verification requirements, to the same extent as winning bidders who are awarded SEPs. It may be necessary to amend a winning bidder's Senate Bill 90 funding award agreement to implement this requirement.

IV - Prevailing Wage Requirements

Facilities owners or developers that are awarded SEPs must comply with the state prevailing wage law in accordance with Public Utilities Code Section 399.14, subdivision (h), which provides as follows:

Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant to Sections 25742 and 25743 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives or supplemental energy payments is "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

As a result of Section 399.14, subdivision (h), any construction, alteration, demolition, installation, and/or repair work performed on an eligible renewable energy resource that receives SEPs is deemed to be "public works" and is subject to the state prevailing wage law with respect to any such work performed on the facility. Generally, this means that, the facility must comply with California Labor Code section 1771 by paying prevailing wage for such work done on such facilities and also must fulfill the reporting and apprenticeship requirements set forth in California Labor Code section 1776 and 1777.5.

Section 399.14, subdivision (h), addresses the following types of work:

- Construction (includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land survey work)
- Alteration
- Demolition
- Installation
- Repair

Work of this type is made subject to the state prevailing wage law by Public Utilities Code Section 399.14, subdivision (h), and the Department of Industrial Relations (DIR) Determination *Re: Salton Sea 6 Geothermal Power Plant Project, Public Work Case 2002-043 (April 10, 2003)*.

Pursuant to DIR Determination *Re: Maintenance, Renewable Energy Resources, Public Work Case 2002-043 (November 12, 2003)*, a facility owner is not subject to the state prevailing wage law for maintenance work that is performed on the facility. Under this DIR determination, maintenance work on a renewable energy facility does not fall within the scope of Public Utilities Code Section 399.14, Subdivision (h), and therefore is not subject to the requirement to pay prevailing wage.

A facility owner or developer who contracts for work covered by the prevailing wage law is the agent awarding the contract for the public work, and therefore is the “awarding body” as defined in California Labor Code section 1722. This means that for compliance with the prevailing wage law, the facility owner or developer shall comply with the provisions applicable to recipients of public funds AND the provisions applicable to an awarding body. As such, compliance with the state prevailing wage law includes without limitation the following:

1. Determining work activities and trades subject to the requirement to pay prevailing wage under the prevailing wage law.
2. Ascertaining applicable prevailing wage rate for each covered worker performing work activities subject to the prevailing wage law on the project.
3. Specifying in calls for bids, bid specifications, and construction contracts the applicable prevailing wage.
4. Ensuring all contracts for work activities on the project subject to prevailing wage include appropriate flow down provisions.
5. Posting the applicable prevailing wage information at each job site of the project.
6. Ensuring payment of prevailing wage as applicable.
7. Overtime and working hour requirements.
8. Apprenticeship obligations.
9. Payroll recordkeeping requirements.
10. Withholding payments from contractors as necessary to satisfy wage and penalty assessments issued by the Labor Commissioner.
11. Other obligations as required by law.

The applicable provisions of the state prevailing wage law are set forth in Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720; and, California Code of Regulations, Title 8, Chapter 8, Subchapter 3, commencing with Section 16000.

Facility owners and developers must comply with the state prevailing wage law as a condition of receiving a SEP Award Agreement and any SEPs. All SEP Award Agreements will include appropriate provisions requiring the facility owner or developer to comply with the state prevailing wage law as both the recipient of public funds and the awarding body and requiring the facility owner to include appropriate flow down provisions in all agreements with contractors and subcontractors for the performance of work on the facility that are under the prevailing wage law. In addition, once the facility is constructed, the facility owner or developer and all construction contractors and subcontractors that performed work activities on the facility subject to prevailing wage law must submit a certification verifying compliance with the state prevailing wage law. The facility owner or developer must submit this certification within 90 days of completing the facility’s construction. Lastly, the facility owner or developer must certify as part of any payment invoice submitted to the Energy Commission that it has continued to comply with the state prevailing wage law.

DIR oversees prevailing wage issues, including coverage determinations, enforcement, record keeping, and apprenticeship requirements. The Energy Commission recommends that questions concerning prevailing wage requirements generally, or as they may apply to facilities requesting SEPs, be directed to DIR. Contact information for DIR may be found at www.dir.ca.gov.

V - Multiple Awards

A facility owner or operator that divides the electrical generation from its facility among two or more separate power purchase contracts may be eligible for SEPs provided that all of the generation from each contract is reported to the Energy Commission's RPS tracking and verification system. SEP applicants, however, are only eligible for SEPs for the first 10 years of generation from their initial RPS contract(s).

SEP applicants that are awarded SEPs may not compete for a second SEP award once their initial contract with the retail seller expires, even if SEPs were awarded for a period of less than 10 years. If a power purchase contract with a retail seller is terminated for reasons beyond the control of a SEP applicant, the applicant may appeal this provision to the Energy Commission. The appeal process is outlined in the *Overall Program Guidebook*. The cumulative number of years of SEP payments cannot exceed 10 years under any circumstances.

VI - Eligible Generation

The Energy Commission will only pay SEPs for eligible generation. A renewable energy facility may not receive SEPs if the electricity produced is any of the following:

- Sold under an existing long-term contract with an existing in-state retail seller entered into before January 1, 2005, if the contract includes fixed energy or capacity payments, with the exceptions that the applicable date for small hydroelectric facilities is January 1, 2006 and the applicable date for conduit hydroelectric facilities is January 1, 2007. This exclusion does not apply to incremental electricity from repowered or refurbished facilities if the following conditions are satisfied: the electricity is delivered under an electricity purchase contract with an electrical corporation originally entered into prior to September 24, 1996, and the electricity is above and beyond what is already under contract, as determined in accordance with Public Resources Code Section 25740.5, subdivision (e)(1)(C).
- Used on-site or sold to customers in a manner that excludes competitive transition charge payments or is otherwise excluded from competitive transition charge payments.

Furthermore, no SEPs will be awarded for tradable renewable energy credits (RECs).

VII - Award Determination

To allow the Energy Commission to determine the availability of public goods charge (PGC) funding, eligible applicants who wish to receive SEPs must include in their application an estimate of the amount of generation to be produced by the facility and sold to the procuring retail seller over the term of the proposed funding period (payable for a maximum of 10 years). This estimate, along with other data from the solicitation, will then be used to determine each applicant's total potential SEP award. The applicants' estimate of energy generation should include only generation that is eligible for SEPs.

Each year, the Energy Commission will compare the requested SEPs with the available PGC funds to determine if PGC funds are adequate to cover SEPs for all the selected applicants. The Energy Commission may impose a cap on SEP awards as discussed below under "Payment Terms." If funding is available to cover only a portion of the SEPs for which an applicant might otherwise be eligible, the applicant may choose to take a partial award or decline the award entirely.

To make informed and timely decisions in evaluating SEP requests, the Energy Commission needs to review the full range of bids that the retail seller received in response to its RPS solicitation (the term "bids" includes all offers considered in an LCBF process approved by the CPUC). The Energy Commission requires the retail seller to provide the following information for each bid received: levelized cents per KWh all-in bid price, the average annual generation by Time of Delivery (TOD) period, contract term, delivery start date, applicable levelized MPR, levelized initial and final bid prices (with an explanation if these are not equivalent), and levelized above-market costs over the contract term. Additionally, if the retail seller is an electrical corporation, it must indicate if a bid is on its "short list" and whether contract negotiations have commenced. The Energy Commission also requests aggregated data for bids below the MPR including: the total number of facilities, the weighted-average price of the bids, the amount of electricity bid, the percentage of the retail seller's APT represented by the bids, and the percentage of the generation bid that would require new transmission. The forms for submitting these data are appended to this Guidebook and titled, "Data on Bids Below the MPR" (CEC-SEP-1) and "Data on Bids Above the MPR" (CEC-SEP-2).

The Energy Commission has developed a worksheet to calculate the levelized MPR, levelized initial and final bid price, and levelized above-market costs that the retail sellers are required to attach as documentation for the data provided in CEC-SEP-1 and CEC-SEP-2. The worksheet is available from the Energy Commission's website at www.energy.ca.gov/portfolio.

The Energy Commission will consider applications to hold data on the CEC-SEP-1 and CEC-SEP-2 forms confidential under its regulations on confidential designation, California Code of Regulations, Title 20, Section 2501 et seq. The retail seller must provide the Energy Commission with "Data on Bids Below the MPR" (CEC-SEP-1) and "Data on Bids Above the MPR" (CEC-SEP-2) within 30 days from the date that the MPR

is adopted by the CPUC. The Energy Commission anticipates that it may need updated information to verify, or revise as needed, its estimate of the potential demand on SEP funds. Consequently, the Energy Commission reserves the right to request that retail sellers update their “Data on Bids Below the MPR” (CEC-SEP-1) and “Data on Bids Above the MPR” (CEC-SEP-2) as needed. The Energy Commission needs timely information to make informed decisions when allocating SEPs to individual applicants. Updates would be requested for bids that have been short-listed.

The Seller (representing a renewable facility that is eligible for the RPS and SEPs) must submit a completed SEP Application (CEC-SEP-4) to the Energy Commission. The information required includes: the applicable market price referent, the initial bid price, the final bid price, the amount of generation expected under contract, the levelized above-market costs over the contract term, and the amount of SEP funding requested. If the levelized initial and final bid prices are not the same, the applicant must attach documentation explaining the difference. An explanation is also needed if the requested SEP amount differs from the above-market costs. The Seller must also identify if it was awarded Senate Bill 90 funds.

The procuring retail seller must provide supporting documentation in the response to the Data Request for SEP Application (CEC-SEP-3), including: the unredacted copy of the advice letter for the contract filed with the CPUC, the applicable MPR, the final bid price (including below-market cost to be paid by the retail seller, and above market cost for which SEPs are requested), the delivery start and end dates, and the Seller’s disclosure to the retail seller regarding whether it has received Senate Bill 90 funding. The Seller and retail seller must attach a completed worksheet (CEC-SEP-worksheet) available from the Energy Commission’s website at <http://www.energy.ca.gov/renewables/documents/index.html#newrenewable> to calculate the levelized MPR, levelized final bid price, and levelized above-market costs, as appropriate, for the SEP application. To calculate the levelized MPR, the applicant must provide the amount of generation expected per TOD period. Each electrical corporation must provide its TOD factors and TOD periods to the Energy Commission and use those CPUC-approved factors and periods in the CEC-SEP worksheet. Each retail seller that is not an electrical corporation must use the TOD factors applicable to the electrical corporation in which the majority of its load is located.

For transparency, the Energy Commission will transmit the Seller’s completed SEP Application (CEC-SEP-4) to the retail seller and the retail seller’s Utility Data to Supplement the SEP Application (CEC-SEP-3) to the Seller. The Energy Commission will consider applications to hold data on the CEC-SEP-3 and CEC-SEP-4 forms confidential pursuant to its regulations on confidential designation, California Code of Regulations, Title 20, Section 2501 et seq.

As part of the SEP Application, the Seller must identify the anticipated dates for achieving the following major contract milestones: demonstration of site control, execution of an Engineering, Procurement and Construction contract, execution of an interconnection agreement, receipt of environmental permits, and project online date.

The Energy Commission may include timely completion of these milestones as a condition to its Funding Confirmation Letter or SEP Award Agreement. For more information, see the section of this Guidebook titled “Basis for Termination of SEP Confirmation and Award.”

The Energy Commission will notify the CPUC, retail seller, and Seller of the availability of SEP funds within 30 days of receiving all data needed to conduct this evaluation and upon the Executive Director’s determination of any related applications for confidential designation. The Energy Commission will not start the 30-day clock before the following information is submitted by the contracting retail seller and the Seller or before a determination of confidential designation is made regarding this information: Data on Bids Below the MPR (CEC-SEP-1), Data on Bids Above the MPR (CEC-SEP-2), Data to Supplement SEP Application (CEC-SEP-3 Utility), SEP Application (CEC-SEP-4 Seller), and the supporting documentation for each form. Further, the Energy Commission will consider the application incomplete if the facility is not certified as RPS and SEP-eligible.

The Energy Commission will notify the Seller, retail seller, and CPUC of what portion of the requested SEPs can be met. If the Funding Confirmation Letter does not confirm the availability of SEPs to cover the full final bid price, the retail seller and Seller have an opportunity to renegotiate the contract terms. If the contract is not yet approved by the CPUC before the Energy Commission issues a Funding Confirmation Letter, the Funding Confirmation Letter will be contingent upon CPUC approval of the contract. If the CPUC approves a final bid price (consisting of both the retail seller contract price and above-market cost) that is lower than the price included in the SEP Application, then the Energy Commission may issue an amended Funding Confirmation Letter with the funding amount reduced to reflect the lower final CPUC-approved price. After the Energy Commission issues a Funding Confirmation Letter, the Energy Commission will publish information on its website identifying the name of the Seller, the procuring retail seller, and the total anticipated SEP award amount.

The Energy Commission will approve SEP Award Agreements after the Seller has met all of its environmental review requirements. A sample SEP Award Agreement is shown in the Forms and Samples section of this guidebook. This agreement is provided as an example only and will be modified as necessary in the future before the Energy Commission’s issuance and approval of any SEP Award Agreements. The SEP Award Agreement will be considered for adoption by the Energy Commission and will be made publicly available upon adoption.

The law provides that the Energy Commission “may provide preference to facilities that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.”⁹ This preference will be evaluated on a case-by-case basis as facilities apply for SEPs, with specific protocols added to the program guidelines as needed as the program progresses.

⁹ Public Resources Code Section 25743 (b)(6).

VIII - Payment Terms

A. SEP Allocation

SEPs may be available to facilities that supply SEP-eligible electricity to retail sellers, or to facilities that provide SEP-eligible electricity to procurement entities that sell that electricity under a CPUC-approved contract to a retail seller. Retail sellers include electrical corporations (also known as IOUs), ESPs and CCAs.

B. Caps

To achieve the goals of the RPS and use PGC funds in the most efficient manner, the law allows the Energy Commission to establish payment caps on SEPs. This could include a cap on the cents per kilowatt-hour for SEP payments, on the amount of funding available per facility, or the total amount of PGC funds available for a given solicitation or time period. At this time, the Energy Commission is not proposing to establish caps in advance but instead intends to evaluate applications for SEPs on a case-by-case basis and determine the need for caps at that time. Any caps will be established during the Energy Commission's evaluation of a SEP application.

Because the Energy Commission has authority under Public Resources Code Section 25747 to revise program guidelines expeditiously and upon approval at a business meeting with 10 days notice, any needed caps could be set and implemented in a timely manner without delaying the determination of a SEP award for a particular facility. The Energy Commission will not impose any additional caps once it issues the Seller a Funding Confirmation Letter. However, the funding identified in the Funding Confirmation Letter or awarded in a subsequent SEP Award Agreement may be reduced or terminated as discussed in Section VIII. E.

In addition to the above noted funding caps, the law places an overall limit on the funding available for facilities located out-of-state. Specifically, the law provides that "No more than 10 percent of the funds available under this section [Public Resources Code Section 25743] shall be awarded to facilities located outside of California."¹⁰ As discussed earlier in this guidebook, approximately \$733.875 million is available under Public Resources Code Section 25743 for SEPs, so no more than 10 percent of this amount, or approximately \$73.3875 million, is available for all out-of-state facilities combined. This limitation does not apply to facilities that are located out-of-state, but have their first point of interconnection to the Western Electricity Coordinating Council (WECC) transmission system within the state. Under the law, these out-of-state facilities are considered to be in-state facilities.¹¹ For additional information concerning in-state

¹⁰ Public Resources Code Section 25743 (b)(2)(B).

¹¹ Public Resources Code Section 25741 (b)(2)(A).

and out-of-state requirements, refer to the *Renewables Portfolio Standard Eligibility Guidebook*.

C. Generation Requirements

The Seller's SEP Award Agreement will specify the Seller's estimated annual generation by the facility. The Energy Commission will not pay SEPs for any generation above the "expected generation" the Seller specified in CEC-SEP-4. In other words, the Seller will not receive SEPs for any generation that exceeds the total expected generation over the term of the SEP Award Agreement as given in the Seller's SEP application. The "expected generation" from CEC-SEP-4 is incorporated as part of the Seller's award from the Energy Commission.

However, the Seller should not overestimate its annual generation when applying for SEPs. The Energy Commission will evaluate each facility's actual generation over the first three years of the funding period. If the actual generation during those first three years averages less than 85 percent of the estimated generation for that three-year period, the Energy Commission will contact the facility for an explanation for the undergeneration.

After evaluating the explanation provided by the facility, the Energy Commission may decide to reduce the facility's SEP award to reflect the amount of actual average annual generation. Generators may appeal any proposed award reduction under the *Overall Program Guidebook*. Funds removed from a facility award as a result of undergeneration will be returned to the Renewable Resource Trust Fund for subsequent distribution or reallocation.

Generation greater than a bidder's estimated annual generation as specified in the seller's SEP Award Agreement is not eligible for SEPs.

D. Invoicing Process

To receive SEPs, facilities that have commenced commercial operations must submit monthly invoices identifying the amount of eligible power generated by the facility. The SEP payment period will begin after the initial delivery date of the first kilowatt-hour of energy sold under a power purchase contract with a retail seller approved by the CPUC resulting from a CPUC-approved selection process.

The monthly invoice form shall consist of a completed and properly executed CEC-SEP-5 form, a copy of which is included with this guidebook, or its replacement at the time, together with an attached invoice or written statement from the purchasing entity verifying the facility's eligible power generation for the billing month. Invoices are due 45 days after the end of the month in which the energy is generated; for generation during the month of January, invoices are due March 10, and checks are expected to be

mailed April 1. The quantity of SEP-eligible electricity invoiced by the facility will be verified by a comparison of retail seller records of monthly purchases from the facility, and, if applicable, from a submission by a procurement entity contracting with the facility, and reported by the procurement entity as having been generated by the facility and sold to a retail seller.

Out-of-state applicants must also demonstrate that the electricity was delivered to a retail seller, with delivery scheduled through an in-state market hub (also referred to as “zone”) or in-state Point of Delivery (also referred to as “node”) located within California. Either the Seller or the purchasing retail seller must document deliveries with North American Electric Reliability Corporation (NERC) tags for the period invoiced. Consistent with the RPS Eligibility Guidebook, the Energy Commission will compare (1) the total amount generated in the previous calendar year with (2) the total amount delivered in the previous calendar year and the lesser of the two may be accounted for as SEP eligible.

The Energy Commission will calculate SEPs by comparing generation and delivery on a monthly or annual basis, depending on the payment period requested. A Seller may annually invoice the Energy Commission for SEPs by providing all required documentation for verification by the Energy Commission on an annual basis. To calculate annual payments, the Energy Commission will compare the total amount generated in the previous calendar year with the total amount delivered in state for the calendar year. SEPs will be paid for the lesser of the annual generation compared to annual deliveries (assuming all applicable eligibility criteria are satisfied). If the Seller invoices the Energy Commission for SEPs on a monthly basis, however, then the Energy Commission will verify delivery per month, in addition to verification of delivery per year. To calculate monthly payments, the Energy Commission will compare NERC tag records per month with generation during the same month and the lesser of the two amounts will qualify as SEP eligible (assuming all applicable eligibility criteria are satisfied).

If the purchasing entity’s statement is not received in time to submit it with a facility’s invoice, facilities may submit an invoice with other evidence of the amount of eligible power generated during the billing month. A letter explaining why the purchasing entity’s statement could not be submitted and describing the evidence submitted in its place must also be submitted with the invoice. Examples of alternative evidence that may be submitted when verification from the purchasing entity is not available include, but are not limited to, statements from the California Independent System Operator (California ISO) or a scheduling coordinator. The Energy Commission will evaluate these invoices on a case-by-case basis and notify the submitting party whether the amount claimed in the invoice, or any part of it, will be accepted and paid upon. The Energy Commission may elect to pay only that portion of the amount invoiced that appears to be reasonable given the evidence submitted in support of the invoice, the prior months' generation, and other factors deemed pertinent at the time of evaluation.

Once the third party statement becomes available, it must be furnished to the Energy Commission so that payment adjustments will be made for any differences in the estimated eligible generation and actual eligible generation.

This procedure will be in effect only while the interim generation tracking system is in place. The Energy Commission will use settlement data to verify generation once the Energy Commission's electronic tracking system is operational.

Additionally, biomass facilities receiving SEPs must submit an annual report to the Energy Commission describing fuel use as follows: tons of biomass by type of biomass, the air district from which the biomass originated if the fuel may have been open-field burned had it not been used for electricity production, and an attestation from the fuel supplier(s) that the biomass fuel continues to meet the RPS eligibility standards. The facility operator must also report on the amount of all fossil fuel used on a total energy input basis for the facility. The annual report shall include an attestation from the facility operator stating that the biomass fuel used meets the applicable statutory requirements. The report also shall include an attestation from the facility's fuel supplier(s) stating that the biomass fuel delivered to the facility meets the applicable statutory requirements. The report is due to the Energy Commission on February 15th of each year to report on the biomass supply consumed in the previous calendar year. Biomass facility operators must also provide documentation upon request by the Energy Commission to verify ongoing compliance with these requirements between reporting dates. This information is needed for the Energy Commission to verify compliance with Public Resources Code Section 25743 (f) and to report on biomass fuel usage in accordance with Public Resources Code Section 25748 (a).

Invoices may be submitted to the Energy Commission at the following address:

California Energy Commission
New Renewable Facilities Program, MS-45
1516 Ninth Street
Sacramento, CA 95814

Invoices may be submitted by fax to (916) 653-8251, but an original signed copy of the invoice must also be submitted before payment will be mailed to the facility.

To receive funding, facilities must also complete the State of California Vendor Record (STD-204) form available at www.documents.dgs.ca.gov/osp/pdf/std204.pdf. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646, and Federal Internal Revenue Code, Section 6109. This form must be on file with the Energy Commission before any payments can be made. If you have any questions about this form, please contact the California Franchise Tax Board at 1-800-852-5711.

E. Basis for Termination of Funding Confirmation Letter and SEP Award Agreement

The Energy Commission reserves the right to terminate any Funding Confirmation Letter or SEP Award Agreement for reasonable cause by providing 30 days notice to the Seller's agent specified in the Funding Confirmation Letter or SEP Award Agreement. The termination may occur at any time after issuance of the Funding Confirmation Letter through the term of the SEP Award Agreement. The Energy Commission may not terminate Funding Confirmation Letters or SEP Award Agreements if the circumstances are corrected to the Energy Commission's satisfaction, or if all parties agree upon an alternative course of action. The Energy Commission does not intend to terminate Funding Confirmation Letters or SEP Award Agreements without reasonable cause.

Examples of reasonable cause include but are not limited to:

- Seller failing to maintain eligibility for the RPS and SEPs, or knowingly providing false or misleading information about itself or the facility, as determined by the Energy Commission, in facility's application for certification or pre-certification. As described in the RPS Eligibility Guidebook, the Seller must promptly notify the Energy Commission of any changes to the information included in the Seller's application for certification or pre-certification. The Energy Commission will review any revisions to the Seller's certification or pre-certification application to verify that the facility retains eligibility for the RPS and SEPs.

Entities holding a Funding Confirmation Letter or SEP Award Agreement must be certified by the Energy Commission as an eligible renewable resource(s) and must maintain that certification as specified in the *Renewables Portfolio Standard Eligibility Guidebook*. Failure to maintain certification or pre-certification or providing false or misleading information about the Seller or facility in the application for certification is cause for terminating the Funding Confirmation Letter or SEP Award Agreement.

- Seller's contract with the retail seller is terminated for any reason.

If the power purchase agreement that serves as the basis of the SEP award is terminated for non-performance or any other reason, the Energy Commission will terminate the Seller's Funding Confirmation Letter or SEP Award Agreement at the same time. However, if a Seller's power purchase agreement is terminated for reasons beyond the Seller's control, the Seller may petition the Energy Commission as described in the *Overall Program Guidebook* for permission to compete for a subsequent SEP award.

- The Seller does not meet project milestones.

The Energy Commission may include specific milestones in the Funding Confirmation Letter or SEP Award Agreement as identified by the Seller in its SEP application. As part of the SEP application, the Seller agrees to notify the Energy Commission in writing as soon as possible in the event of failure or potential failure to meet one of these milestones. Also, the Seller agrees to send the Energy Commission any notice regarding a potential or actual force majeure, contract default, or contract termination that it sends to the retail seller. If the project misses a milestone identified in its Funding Confirmation Letter or SEP Award Agreement, the Energy Commission may terminate the Funding Confirmation Letter or SEP Award Agreement through an award termination order. The Seller may petition the Energy Commission as described in the Overall Program Guidebook to retain its award if the Energy Commission exercises this discretion but the contract has not been cancelled.

If the power purchase agreement that serves as the basis of the SEP award is modified or renegotiated after a Funding Confirmation Letter or SEP Award Agreement is approved and the total energy price being paid under the power purchase agreement is now below the applicable MPR, the Energy Commission will terminate Seller's Funding Confirmation Letter or SEP Award Agreement.

- The funding needed to fund a SEP award is not available through the Renewable Resource Trust Fund.

Receipt of SEPs is contingent on availability of funds. The Energy Commission may terminate a SEP Funding Confirmation Letter or SEP Award Agreement if the Renewable Resource Trust Fund does not receive the funds expected, for example if state or federal laws alter the amount of money allocated to the NRFP or the structure of the program before the expected end of the SEP funding period.

Appendix A – Forms and Instructions

To download an electronic version of the forms or the supporting worksheet needed to calculate information requested in the forms, please see the Energy Commission's website at www.energy.ca.gov/portfolio.

- CEC-SEP-Worksheet (to calculate levelized values requested in forms CEC-SEP-1, CEC-SEP-2, CEC-SEP-3, and CEC-SEP-4).
- CEC-SEP-1 Data on Bids Below the MPR.
- CEC-SEP-2 Data on Bids Above the MPR.
- CEC-SEP-3 Utility Data to Supplement SEP Application, Utility.
- CEC-SEP-4 SEP Application, Seller.
- CEC-SEP-5 Monthly Invoice for Supplemental Energy Payments New Renewable Facilities Program.
- STD-204 Payee Data Record (download from www.documents.dgs.ca.gov/osp/pdf/std204.pdf).
- Sample Supplemental Energy Payment Award Agreement.

INSTRUCTIONS PAGE



CALIFORNIA ENERGY COMMISSION

- Please fill out all yellow highlight cells in the INPUT BID/OFFER DATA tab starting with the inputs at the top of the page first.
- When the contract term is entered, the tables below will automatically set up to accommodate a 10-, 15-, and 20-year contract.
- When Utility Service Territory is selected from the drop down menu, the number of TOD periods will automatically change to allow for 6 or 9 TOD periods.
- For projects not subject to TOD periods, enter a "1" for the TOD factors and enter all generation and price data in the first TOD factor column.
- All information in the remaining tabs is automatically transferred from the INPUT BID/OFFER DATA tab and no additional inputs are required on other tabs.
- The Bid-Offer Data Request Transfer Sheet tab can be used to simplify the process of filling out forms CEC-SEP-1 and CEC-SEP-2. All necessary data to fill out these forms is transferred to this tab once the INPUT BID-OFFER DATA tab is completely filled out.

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 California Code of Regulations Section 2505.



**CALIFORNIA
ENERGY
COMMISSION**

**CEC-SEP-1
BID DATA REQUEST**

Bids BELOW the MPR
MARCH 2007
(page 1)

1. Utility and Date

Utility	
Date	

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 California Code of Regulations section 2505.

2. Solicitation Information

Solicitation/MPR Year	
WACC (Utility specific)	

This form must be sent electronically in Excel format to the California Energy Commission at: RPSTrack@energy.state.ca.us
If confidential designation is sought, an electronic copy should be filed only after a determination of confidentiality is complete.

3. Bid Information

Facility Name	Contract Start Year	Contract Term	MPR for Contract Start Year	Levelized Bid Price (cents/kWh) over contract term	Levelized Contract Price (cents/kWh) over contract term	Levelized Above Market Costs (cents/kWh) over contract term	Total Above Market Costs (\$) over contract term	Levelized TOD-Adjusted MPR (cents/kWh) over contract term	Is the Bid on the IOU's Short List? (Yes or No)	Have Negotiations begun? (Yes or No)

*Applicants seeking confidential designation should send their forms and supporting documentation, along with an application for confidentiality, to the Executive Director instead of to the RPS Program as follows:
Executive Director, California Energy Commission, 1516 Ninth Street, MS-39, Sacramento, CA 95814.*

BELOW MPR



**CALIFORNIA
ENERGY
COMMISSION**

**CEC-SEP-1
BID DATA REQUEST**

**Bids BELOW the MPR
MARCH 2007
(page 2)**

4. Total number of facilities. If one facility submits multiple bids, count the bids collectively as one project.		%
5. What percentage of the utility's 2005 annual procurement target does the utility anticipate meeting as a result of the selected projects that require no SEPs?		%
6. Provide a single aggregate, weighted-average price for all bids below the MPR.		cents/KWh

| Estimated Annual Sales (kWh) |
|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|
| Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 | Year 11 |
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**CALIFORNIA
ENERGY
COMMISSION**

**CEC-SEP-1
BID DATA REQUEST**
Bids **BELOW** the MPR
MARCH 2007
(page 3)

Estimated Annual Sales (kWh)	Total Estimated Annual Sales								
Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Years 1-20
									0
									0
									0
									0
									0
									0

BELOW MPR



**CALIFORNIA
ENERGY
COMMISSION**

**CEC-SEP-2
BID DATA REQUEST**

Bids ABOVE the MPR
MARCH 2007
(page 1)

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 California Code of Regulations Section 2505.

1. Utility and Date

Utility	
Date	

2. Solicitation Information

Solicitation/MPR Year WACC (Utility specific)
--

This form must be sent electronically in Excel format to the California Energy Commission at: **RPSTrack@energy.state.ca.us**

3. Bid Information

Facility Name	Contract Start Year	Contract Term	MPR for Contract Start Year	Levelized Bid Price (cents/kWh) over contract term	Levelized Contract Price (cents/kWh) over contract term	Levelized Above Market Costs (cents/kWh) over contract term	Total Above Market Costs (\$) over contract term	Levelized TOD-Adjusted MPR (cents/kWh) over contract term	Is the Bid on the IOU's Short List? (Yes or No)	Have Negotiations begun? (Yes or No)

ABOVE MPR



**CALIFORNIA
ENERGY
COMMISSION**

**CEC-SEP-2
BID DATA REQUEST**

**Bids ABOVE the MPR
MARCH 2007
(page 2)**

| Estimated Annual Sales (kWh) |
|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 | Year 11 |
| | | | | | | | | | | |
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ABOVE MPR



**CALIFORNIA
ENERGY
COMMISSION**

**CEC-SEP-2
BID DATA REQUEST**

Bids ABOVE the MPR
MARCH 2007
(page 3)

Estimated Annual Sales (kWh)	Total Estimated Annual Sales								
Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Years 1-20
									0
									0
									0
									0
									0
									0
									0

ABOVE MPR

(TO BE COMPLETED BY UTILITY)
REPORT to the CALIFORNIA ENERGY COMMISSION
Report of Data from Bids Received as Result of RPS Solicitation
ATTESTATION FORM

I (print name and title) _____ declare under penalty of perjury that the following is true and correct to the best of my knowledge:

1) I am an authorize agent of (print name of company) _____ and have authority to submit this report on the company's behalf.

2) The information and data provided in CEC-SEP-1 and CEC-SEP-2 are correct to the best of my knowledge.

*Applicants seeking confidential designation should send their forms and supporting documentation, along with an application for confidentiality, to the Executive Director instead of to the RPS Program as follows:
Executive Director, California Energy Commission, 1516 Ninth Street, MS-39, Sacramento, CA 95814.*

Signed: _____

Dated: _____

CONTACT INFORMATION
(FOR PREPARER OF THIS REPORT)

Name _____

Title _____

Company Name _____

Address _____

City, State, Zip _____

Phone _____

Fax _____

E-mail _____



**California
Energy
Commission**

**CEC-SEP-3 (UTILITY)
Data Request for SEP Application**

March 2007

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 CCR Section 2505.

[1] Seller: _____ **Facility Name:** _____
CEC-RPS-ID#: _____

[2] Utility: _____ **Date Solicitation was Issued** _____
Title of Solicitation _____

[3] Utility Contact Name: _____ **Phone:** _____
Fax: _____ **Email:** _____

[4] Market Price Referent:
Please specify levelized MPR weighted for this contract using the utility's TOD factors (¢/kWh): _____

[5] SB 90 Funding Awards:
Did this bidder state that the facility had received a funding award from the Energy Commission's New Renewable Resources Account pursuant to SB 90? Yes No

[6] Contract Price:
Use the template spreadsheet to provide the contract price requested. Price should be expressed in the year's dollars that corresponds with both the contractual start date and the applicable MPR.
Identify the levelized contract price (¢/kWh) _____.

[7] Contract Term:
a) Expected start date of energy deliveries under contract: _____
b) Expected end date of energy deliveries under contract: _____

[8] Supplemental Information: Attach an unredacted copy of the utility's Advice Letter to the CPUC requesting approval for this contract.

[9] Attestation:
I, (name/ title) _____, declare under penalty of perjury that the information provided in this form and submitted herewith is true and correct to the best of my knowledge and that I am an authorized agent of the utility referenced above with authority to submit this information on the utility's behalf. I further declare under penalty of perjury that to the best of my knowledge the facility referenced above was selected through a competitive, RPS solicitation pursuant to CPUC Decision 04-07-029.

Dated this _____ day of _____, 20_____, at _____.
(day) (month) (year) (place of execution)
Signature: _____

*Please fill out completely, sign, and submit completed form and the supporting spreadsheet to:
California Energy Commission. Attn: RPS Program, 1516 Ninth Street, MS-45, Sacramento, CA 95814
Also, please e-mail a copy to: RPSTrack@energy.state.ca.us*

**Applicants seeking confidential designation should send their forms and supporting documentation, along with an application for confidentiality, to the Executive Director instead of to the RPS Program as follows:
Executive Director, California Energy Commission, 1516 Ninth Street, MS-39, Sacramento, CA 95814**

Data Request for SEP Application INSTRUCTIONS

[1] SELLER IDENTIFICATION: Provide the seller's name, the facility name, and the CEC-RPS-ID number for the facility under contract. The **CEC-RPS-ID** is the number issued by the Energy Commission to identify facilities that are eligible for the Renewables Portfolio Standard. To be eligible for Supplemental Energy Payments, a facility must be certified or pre-certified as an eligible renewable energy resource under California's Renewables Portfolio Standard. A list of certified facilities is available on the Energy Commission's Web site at: www.energy.ca.gov/portfolio/index.html.

[2] UTILITY IDENTIFICATION: Identify the utility name. Identify the date that the competitive RPS solicitation was issued for which this facility was selected for contract. Identify the title or identifying number of the solicitation.

[3] UTILITY CONTACT NAME: Identify the name, phone and fax numbers, and e-mail of the utility contact person the Energy Commission may contact with questions about the information submitted in this form.

[4] MARKET PRICE REFERENT: Provide the MPR that is used for this contract start date and adjusted using the utility's TOD factors for this solicitation year and the Seller's generation profile.

[5] SB 90 FUNDING AWARDS: Check the appropriate box to indicate if the Seller disclosed that the facility had received a funding award from the Energy Commission under SB 90.

A facility with a conditional funding award from the Energy Commission's New Renewable Resources Account under SB 90 can participate in an RPS solicitation to secure a power purchase contract but must relinquish its SB 90 award if it wishes to receive SEPs. Sellers with SB 90 awards whose facilities have not commenced commercial operations must state their intention to either (1) keep their SB 90 award and agree to be ineligible for SEPs or (2) relinquish the SB 90 award and compete for potential SEPs. Sellers with SB 90 awards whose facilities are already online must do the same, with the further condition that any funding awarded through SEPs will be reduced by the amount of SB 90 funding award payments already made to these facilities.

A Seller in an RPS solicitation that chooses to keep its SB 90 award can receive payments under the terms and conditions of the SB 90 award but cannot receive SEPs resulting from the RPS solicitation. A Seller that chooses to relinquish its SB 90 award and any payments already made under that award must do so once it executes a contract with a utility. This must be done even if the Seller does not ultimately qualify for SEPs because its bid was below the market price referent for that solicitation. If a Seller does not secure a contract under the RPS solicitation, however, the Seller will not be required to relinquish its SB 90 award.

[6] CONTRACT PRICE: Identify the levelized bid price ($\text{\$/kWh}$) and term of contract (years). To compute the levelized bid price ($\text{\$/kWh}$) divide the present value of total revenue for the facility over the contract period ($\text{\$}$ in each year of the contract) by the present value of utility purchases (kWh in each year of the contract). Use the utility's before-tax weighted average cost of capital (WACC) approved by the CPUC for the solicitation year being evaluated. Price should be expressed in the year's dollars that corresponds with both the contractual start date and the applicable MPR. See template spreadsheet for calculation details.

[7] CONTRACT TERM: Please identify the expected start and end dates of energy deliveries under the contract.

[8] SUPPLEMENTAL INFORMATION: Attach an unredacted copy of the utility's Advice Letter to the CPUC requesting approval for this contract.

[9] ATTESTATION: This form must be signed by an authorized representative of the utility, and the original signed copy must be sent to the Energy Commission. Also, please e-mail an electronic version of the completed form to the Energy Commission. The electronic version of the spreadsheet must be in Excel format and not in Portable Document Format (PDF).



[1] Seller: _____ Facility Name: _____

CEC-RPS-ID: _____

[2] Contracting Utility: _____ Date Solicitation was Issued _____

Title of Solicitation _____

3] Seller Contact Name: _____ Phone: _____

Fax: _____ E-mail: _____

4] Market Price Referent:

(a) Specify the term (# of years) _____ and start date (year) _____ for deliveries applicable to this contract.

(b) Specify the MPR adopted by the CPUC for the factors specified in 4(a) and for this solicitation as identified in question 2, without making adjustments for TOD factors (¢/kWh) _____.

[5] SB 90 Funding Awards: Has the facility ever received a funding award from the Energy Commission's New Renewable Resources Account? Yes – complete question 6 No – skip to question 7

[6] For Facilities with Energy Commission SB 90 Funding Awards:

Facility name: _____ CEC SB 90 Registration. ID #: _____

Funding Award Agreement number, if applicable: _____

Has facility agreed to relinquish its SB 90 award and notified the Energy Commission? Yes No

If "no," facility is not eligible to receive SEPs.

[7] Bid Price and Contract Price

Note: Use the template spreadsheet to provide the information requested in 7(a) and (b). Price should be expressed in the year's dollars that corresponds with both the contractual start date and the applicable MPR.

a) Identify the levelized bid price (¢/kWh) _____ and proposed contract term (years) _____.

b) Identify the levelized contract price (¢/kWh) _____ and contract term (years) _____.

c) If the levelized bid price (7a) differs from the contract price (7b), attach documentation to explain the difference.

[8] Supplemental Energy Payment:

Note: The Energy Commission needs these data for its evaluation of total potential SEP demand, but SEP payments approved by the Energy Commission will not necessarily match these values.

Use the template spreadsheet to provide the information requested in 8 (a), (b), and (d).

a) Identify the levelized above-market costs over the proposed contract period (¢/kWh): _____.

b) Identify the total amount of above-market costs over the proposed contract period (nominal dollars): _____.

c) Identify the levelized supplemental energy payment REQUESTED to be paid out per kWh over the 10 year payout period (¢/kWh): _____.

d) Specify the MPR in 4(b) weighted (to reflect sales per TOD and CPUC adopted TOD factors applicable to this solicitation) and levelized over the contract term using (¢/kWh) _____.

e) If the levelized above-market costs over the proposed contract period from part (a) differs from the levelized supplemental energy payment REQUESTED from part (c), please attach documentation explaining the difference.



**California
Energy
Commission**

**CEC-SEP-4 (SELLER)
SEP Application**

March 2007 (page 2)

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 CCR Section 2505.

[9] Annual Data: Estimated Maximum Sales (kWhs), Weighted Contract Price, Weighted MPR

To support your leveled values reported in parts 7(a), 7(b), 8(a), 8(b) and 8(d), provide: the annual sales eligible for SEPs per TOD period, TOD factors, Weighted Average Cost of Capital, and annual contract price by TOD period. Calculate the annual weighted MPR (the MPR shown should be weighted for any applicable TOD factors). Use the utility's before-tax weighted average cost of capital (WACC) approved by the CPUC for the solicitation year being evaluated. Use the MPR approved by the CPUC for the solicitation year being evaluated. Use template spreadsheet to provide this information and calculate the annual weighted MPR.

Please input the data in the template spreadsheet and submit it to the Energy Commission electronically. The file must be in Excel format and not in Portable Document Format (PDF).

[10] Benefits to Low Income or Minority Communities: Attach information submitted with bid describing the benefits.

[11] Contract Milestones: Identify the anticipated dates for achieving the following major contract milestones (indicate "complete" if the milestone has already been achieved):

Demonstration of site control (month/year) _____

Execution of an Engineering Procurement and Construction contract (month/year) _____

Execution of an interconnection agreement (month/year) _____

Receipt of environmental permits (month/year) _____

Construction start date (month/year) _____

Project On-line (month/year) _____

Check this box if the seller agrees to the following:

- The seller agrees to promptly notify the Energy Commission in the event of failure or potential failure to meet a milestone.
- The seller agrees to send the Energy Commission any notice regarding a potential or actual force majeure, contract default or contract termination sent to the IOU.

[12] Acknowledgement:

I, (name and title) _____, hereby submit this SEP Application on behalf of the above-referenced Seller and with its authority, and understand that this SEP Application constitutes a request for SEP funding pursuant to the Energy Commission's *New Renewable Facilities Program Guidebook*. I understand that the Energy Commission will consider the information included as part of this SEP Application and the Data Request for SEP Application submitted by the above-referenced utility in deciding whether to issue a Funding Confirmation Letter and SEP Award Agreement. I further understand that the issuance of a Funding Confirmation Letter and SEP Award Agreement will be subject to the requirements and conditions, including termination, specified in the Energy Commission's *New Renewable Facilities Program Guidebook*, *Renewables Portfolio Standard Eligibility Guidebook*, and *Overall Program Guidebook*.



California Energy Commission

CEC-SEP-4 (SELLER) SEP Application

March 2007 (page 3)

Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations, 20 CCR Section 2505.

[13] Attestation:

I, (name and title) _____, declare under penalty of perjury that the information provided in this form and submitted herewith is true and correct to the best of my knowledge and that I am an authorized agent of the seller referenced above with authority to submit this information on the seller's behalf. I further declare under penalty of perjury that to the best of my knowledge, the energy identified in box 9 above to be produced by the above-noted facility (a) will not receive any fixed energy or capacity payments under an existing contract with an existing in-state retail seller entered into prior to January 1, 2005; (b) will not be used for on-site (self) generation; (c) is not excluded from any applicable competitive transition charge; and (d) will be delivered through the in-state zone or hub designated in the retail seller contract.

Dated this _____ day of _____, 20_____, at _____.

(day) (month) (year) (place of execution)

Signature: _____

Please fill out completely, sign, and submit completed form and the supporting spreadsheet to:

California Energy Commission. Attn: RPS Program, 1516 Ninth Street, MS-45, Sacramento, CA 95814

Also, please e-mail a copy to: RPSTrack@energy.state.ca.us

Applicants seeking confidential designation should send their forms and supporting documentation, along with an application for confidentiality, to the Executive Director instead of to the RPS Program as follows: Executive Director, California Energy Commission, 1516 Ninth Street, MS-39, Sacramento, CA 95814

SEP APPLICATION INSTRUCTIONS

[1] SELLER INFORMATION: Identify the name of the seller and the facility name. The Energy Commission issues the **CEC-RPS-ID** to identify facilities that are eligible for the Renewables Portfolio Standard (RPS). To be eligible for Supplemental Energy Payments, a facility must be certified or pre-certified as an eligible renewable energy resource for purposes of California's RPS.

[2] CONTRACTING UTILITY INFORMATION: Identify the name of the utility the seller is contracting with and the date and title of the competitive RPS solicitation under which this contract was selected.

[3] SELLER CONTACT INFORMATION: Identify the name, phone number, and e-mail of the seller contact person whom the Energy Commission may contact with questions about the information submitted in this form.

[4] MARKET PRICE REFERENT:

- a. Specify the contract term and start date for deliveries applicable to this contract.
- b. Specify the MPR ($\text{\$/kWh}$) adopted by the CPUC applicable to this contract term and start date as shown in 4a, before applying TOD factors.

[5] SB 90 FUNDING AWARDS: A facility with a conditional funding award from the Energy Commission's New Renewable Resources Account under SB 90 can participate in an RPS solicitation to secure a power purchase contract but must relinquish its SB 90 award if it wishes to receive SEPs. Sellers with SB 90 awards whose facilities have not commenced commercial operations must state their intention to either (1) keep their SB 90 award and agree to be ineligible for SEPs or (2) relinquish the SB 90 award and compete for potential SEPs. Sellers with SB 90 awards whose facilities are already online must do the same, with the further condition that any funding awarded through SEPs will be reduced by the amount of SB 90 funding award payments already made to these facilities.

A Seller in an RPS solicitation that chooses to keep its SB 90 award can receive payments under the terms and conditions of the SB 90 award but cannot receive SEPs resulting from the RPS solicitation. A Seller that chooses to relinquish its SB 90 award and any payments already made under that award must do so once it executes a contract with a utility. This must be done even if the Seller does not ultimately qualify for SEPs because its bid was below the market price referent for that solicitation. If a Seller does not secure a contract under the RPS solicitation, however, the Seller will not be required to relinquish its SB 90 award.

Sellers in an RPS solicitation that choose to keep their SB 90 awards must comply with the Energy Commission's RPS requirements, including the RPS tracking and verification requirements, to the same extent as Sellers who are awarded SEPs. A Seller's SB 90 funding award agreement will be amended as necessary to implement this requirement.

[6] FOR FACILITIES WITH SB 90 FUNDING AWARDS: Identify the facility name and registration number used for the facility under the Energy Commission's New Renewable Resources Account pursuant to SB 90. If a funding award agreement has been approved, identify the funding award agreement number assigned by the Energy Commission.

[7] BID PRICE AND CONTRACT PRICE:

a) Identify the levelized bid price ($\text{\$/kWh}$) and term of contract (years). To compute the levelized bid price ($\text{\$/kWh}$) divide the present value of total revenue for the project over the contract period ($\text{\$}$ in each year of the contract) by the present value of utility purchases (kWh in each year of the contract). Use the utility's before-tax weighted average cost of capital (WACC) approved by the CPUC for the solicitation year being evaluated. Price should be expressed in the year's dollars that corresponds with both the contractual start date and the applicable MPR. See template spreadsheet for calculation details.

b) Identify the levelized contract price ($\text{\$/kWh}$) and the utility contract term (years, this should be the same as the contract term shown in 4a).

The nominal weighted average contract price must be documented using the template spreadsheet. Input the contract price by TOD period and the annual generation by TOD period. The algorithms imbedded in the spreadsheet will calculate the annual nominal weighted average contract price for each year of expected delivery, expressed in the year's dollar for which delivery is expected to begin. The weighted average contract price should reflect both the contract price and expected deliveries during a given price period. For example, the calculation of the weighted average price for a product receiving an "X" peak price four hours a day, seven days a week, 365 days a year, and "Y" offpeak price for the remainder would be: $[(X \text{ peak price/hour}) * (\text{estimated generation to be delivered during the peak four hour period for the entire year}) / (\text{total estimated generation to be delivered for the entire year})] + [(Y \text{ offpeak price/hour}) * (\text{estimated generation to be delivered during the offpeak period for the entire year}) / (\text{total estimated generation to be delivered for the entire year})]$.

The levelized utility payment ($\text{\$/kWh}$) must be documented using the template spreadsheet. Input the following data: solicitation/MPR year, contract start year, contract term, levelized MPR including TOD factors, and the utility's before-tax weighted average cost of capital (WACC) approved by the CPUC for the solicitation year being evaluated. The levelized utility payment is calculated by dividing the present value of total utility payments over the contract period ($\text{\$}$ in each year of the contract) by the present value of utility purchases (kWh in each year of the contract). See template spreadsheet for calculation details.

c) If the levelized bid price from part (a) differs from the contract price from part (b), please attach documentation explaining the difference.

[8] SUPPLEMENTAL ENERGY PAYMENT REQUEST

Note: The Energy Commission needs these data to evaluate SEPs, but SEP payments approved by the Energy Commission will not necessarily match these values.

a) Identify the levelized above-market cost over the proposed contract period ($\text{\$/kWh}$). To compute the requested SEP award ($\text{\$/kWh}$), divide the present value of the requested SEP payments over the contract period ($\text{\$}$ in each year of the contract) by the present value of utility purchases (kWh in each year of the contract). Use the utility's before-tax weighted average cost of capital (WACC) approved by the CPUC for the solicitation year being evaluated. See template spreadsheet for calculation details.

b) Identify the total amount of above-market costs over the proposed contract period (nominal dollars).

c) Identify the levelized supplemental energy payment REQUESTED ($\text{\$/kWh}$). This is the amount you want paid per eligible kWh generated over the 10 year SEP payment period.

d) Specify the MPR in 4(b) weighted (to reflect sales per TOD and CPUC adopted TOD factors applicable to this solicitation) and levelized over the contract term using (¢/kWh). To compute the levelized, weighted MPR (¢/kWh), divide the present value of total utility payments over the contract period ($\text{\$}$ in each year of the contract) by the present value of utility purchases (kWh in each year of the contract). Use the utility's before-tax weighted average cost of capital (WACC) approved by the CPUC for the solicitation year being evaluated. See template spreadsheet for calculation details.

e) If the levelized above-market cost over the proposed contract period from part (a) differs from the levelized supplemental energy payment REQUESTED from part (c), please attach documentation explaining the difference.

[9] ANNUAL DATA: ESTIMATED MAXIMUM SALES (kWh), WEIGHTED CONTRACT PRICE, WEIGHTED MPR

To support your levelized values reported in parts 7(a), 7(b), 8(a) and 8(c), provide: the annual sales eligible for SEPs per TOD period, TOD factors, Weighted Average Cost of Capital, and annual contract price by TOD period. Calculate the annual weighted MPR (the MPR shown should be weighted for any applicable TOD factors). Use the utility's before-tax weighted average cost of capital (WACC) approved by the CPUC for the solicitation year being evaluated. Use the MPR approved by the CPUC for the solicitation year being evaluated. Use template spreadsheet to provide this information and calculate the annual weighted MPR. Please input the data in the template spreadsheet and submit it to the Energy Commission electronically. The file must be in Excel format and not in Portable Document Format (PDF).

Please note that the importance of accurately estimating the annual sales of renewable energy eligible for SEPs.

- If the seller **UNDER-estimates** the annual generation: The Energy Commission will not pay SEPs for any generation above the maximum generation specified in the contract between seller and utility, consistent with the Energy Commission's program guidelines (*New Renewable Facilities Program Guidebook*, available at: [www.energy.ca.gov/portfolio/document]). In other words, the seller will not receive SEPs for any deliveries made under this contract that exceeds the amount shown on this form and incorporated as part of the seller's award from the Energy Commission.
- If the seller **OVER-estimates** the annual generation: Facilities receiving SEPs must meet minimum generation requirements or face a penalty. The Energy Commission will evaluate the actual generation of each facility receiving SEPs during the first three years of the funding period against the estimated generation contained in the facility's funding award agreement. If the actual generation during those first three years averages less than 85 percent of the estimated generation for that three-year period, the Energy Commission will contact the facility for an explanation for the undergeneration and may decide to reduce the facility's SEP award to reflect the amount of actual average annual generation. Please see "Generation Requirements" in the program guidelines.

[10] BENEFITS TO MINORITY OR LOW-INCOME COMMUNITIES: Attach any information submitted with the facility's bid to the utility describing the facility's benefit to minority or low-income communities. Under the program guidelines, the Energy Commission may provide preference to facilities that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations as evaluated on a case-by-case basis when facilities apply for SEPs.

[11] CONTRACT MILESTONES: Identify the anticipated dates for achieving the major contract milestones listed on the application. Indicate “complete” if the milestone has already been achieved.

The seller agrees to: (1) promptly notify the Energy Commission in the event of failure or potential failure to meet a milestone, and (2) send the Energy Commission any notice regarding a potential or actual force majeure, contract default or contract termination sent to the utility.

[12] ACKNOWLEDGEMENT: Identify the name and title of the authorized representative of the Seller.

[13] ATTESTATION: This form must be signed by an authorized representative of the seller, and the original signed copy must be sent to the Energy Commission. Also, please e-mail an electronic version to the Energy Commission. The electronic version of the spreadsheet must be in Excel format and not in Portable Document Format (PDF).

MONTHLY INVOICE FOR SUPPLEMENTAL ENERGY PAYMENTS NEW RENEWABLE FACILITIES PROGRAM

Note: All data submitted on this form is subject to public disclosure.



RENEWABLE
ENERGY
PROGRAM

CALIFORNIA ENERGY COMMISSION

Please submit invoice to:

California Energy Commission
New Renewable Facilities Program, MS-45
1516 Ninth Street, Sacramento, CA 95814-5512
Fax: (916) 653-8251

Instructions for completing this form are in the
Guidebook for the New Renewable Facilities Program

Please print or type

Company Name:											
Generation Period:							Date Submitted:				
CEC RPS ID #:											
Eligible Production (in kWhs)										Please check one:	
										<input type="checkbox"/>	Estimated Generation (attach explanation letter)
										<input type="checkbox"/>	Based upon attached third-party statement

DECLARATION

I, (print name) _____, declare under penalty of perjury that the information provided in this invoice is true and correct to the best of my knowledge and that I am an authorized agent of the above named company with authority to submit this invoice on the company's behalf and attest to the matters set forth herein. I further declare under penalty of perjury that I have reviewed the electricity production data included in the attached statement(s) and that, to the best of my knowledge, it does not overstate the amount of electricity production supplied to the transmission grid or distribution system by the above-named company. I further declare under penalty of perjury that prevailing wages were paid for work activities on the facility that were subject to the prevailing wage law and covered by the period of this invoice and that above-named company and all contractors and subcontractors complied with all requirements set forth in Supplemental Energy Payment Award Agreement No. _____ concerning the prevailing wage law and payment of prevailing wages.

Dated _____ at _____
(month/day/year) (place of execution)

Signature: _____ Title: _____

Instructions for Completing Monthly Invoice Report for New Renewable Facilities Program

1. **Company Name** – Current full name of the generating facility. Include name of business or company that owns facility, if different than facility name.
2. **Generation Period** – The month and year for which generation is being submitted.
3. **Date Submitted** – Date invoice submitted to the Energy Commission.
4. **CEC RPS ID** – Certified Renewable Supplier identification number assigned to the facility by the Energy Commission under the certification process described in the *Renewables Portfolio Standard Eligibility Guidebook*.
5. **Eligible Production (in kWhs)** – Number of kWhs of generation eligible for funding during the generation period, based on the statement of an independent third party. If eligible generation is sold to more than one entity in a given month, attach a separate statement itemizing the amount of eligible generation sold to each entity. Third-party verification is only required while the Energy Commission's interim tracking system is in place; once the final electronic tracking system is in operation, the third-party verification is no longer necessary.
6. **Declaration** – The declaration must be completed by an officer of the company such as the Chief Executive Officer, Chief Financial Officer, or a similar officer with authority to bind the company.

Note: For administrative convenience, the format of the CEC-SEP-5 form, as well as the information requested, may be modified in the future. (Such modifications will not be deemed substantive in nature.)

**DRAFT SAMPLE SUPPLEMENTAL ENERGY PAYMENT (SEP)
AWARD AGREEMENT**

This agreement is provided as an example only and will be modified.

1. **Purpose.** This Award Agreement (“Agreement”) is entered into between _____ (“Grantee”) and the California Energy Commission (“Energy Commission”) for the purpose of creating a funding award to provide Supplemental Energy Payments (“SEPs”) pursuant to the Energy Commission’s *New Renewable Facilities Program Guidebook, Renewables Portfolio Standard Eligibility Guidebook, and Overall Program Guidebook*, (collectively referred to as “Guidelines”). Grantee was selected as a winning bidder in _____ (title of solicitation) dated _____ (date the utility released the solicitation) and awarded a power purchase contract with _____ to supply electricity from its _____ facility (“Facility”), as described in Exhibit A. This Agreement commits funding to pay SEPs for Grantee’s Facility subject to the Guidelines and the terms and conditions specified herein. Grantee must comply with the terms and conditions of the Guidelines, this Agreement, and power purchase contract _____ with _____ to remain eligible to receive funding under this Agreement.

2. **Incorporation by Reference.** Neither the Energy Commission’s Guidelines nor Grantee’s SEP Application dated _____ are attached hereto but are incorporated by reference and made a part of this Agreement.

3. **SEP Award Amount.** The total amount of Grantee’s SEP award under this Agreement is _____ and is based on the difference between the Grantee's contract price of ___ cents/kWh and the applicable market price referent of _____ for solicitation _____, subject to any Energy Commission imposed caps and the following estimated annual levels of eligible electrical power generation, as identified in Grantee's SEP Application dated _____.

Year 1 Generation	_____	kWhs
Year 2 Generation	_____	kWhs
Year 3 Generation	_____	kWhs
Year 4 Generation	_____	kWhs
Year 5 Generation	_____	kWhs
Year 6 Generation	_____	kWhs
Year 7 Generation	_____	kWhs
Year 8 Generation	_____	kWhs
Year 9 Generation	_____	kWhs
Year 10 Generation	_____	kWhs
 Total	 _____	 kWhs

4. **Contingent Funding.** Funding for this Agreement is contingent on the availability of adequate funding from the Energy Commission's Renewable Resource Trust Fund.
5. **Term.** The term of this Agreement shall be from the date of execution by both Grantee and the Energy Commission to _____ years after the Facility's online date unless terminated earlier by the Energy Commission pursuant to the Guidelines. Notwithstanding the term of this Agreement, Grantee may submit final invoices for payment of eligible electrical power generated during the term of this Agreement for a period of three months after the term ends.
6. **Non-Transferability of SEP award.** The SEP award created by this Agreement is specific to Grantee and the _____ Facility. This SEP award is not transferable or assignable to another facility and may not be assigned to another entity without the Energy Commission's prior written permission.
7. **Assignment.** Grantee shall not assign its rights nor delegate its duties under this Agreement without the Energy Commission's advance written approval.
8. **Indemnification.** Grantee agrees to indemnify, defend, and save harmless the Energy Commission, its officers, agents, and employees from any and all claims and losses accruing and resulting to any and all contractors, subcontractors, material men, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with Grantee's Facility or this Award Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Grantee or Grantee's officers, agents, employees, contractors, subcontractors, material men, laborer, or any other person, firm, or corporation in connection with the performance of work to develop, construct, or operate Grantee's Facility or receive funding under this Agreement.
9. **Review and Disclaimer.** Review by the Energy Commission of the design, operation, or maintenance of Grantee's Facility or related interconnection or generation facilities shall not constitute any representation as to the economic or technical feasibility, operational capacity, or reliability of such facilities. Grantee shall not in any way represent to any third party that the Energy Commission's review of Grantee's Facility is a representation by the Energy Commission as to the Facility's economic or technical feasibility, operational capability, or reliability. Grantee is solely responsible for its Facility's economic and technical feasibility, operational capability, and reliability.
10. **Certification.** Grantee has provided evidence of facility certification as an eligible renewable resource and must maintain that certification as outlined in the Energy Commission's *Renewables Portfolio Standard Eligibility Guidebook*. Failure to do so may result in Grantee's SEP Award Agreement being terminated as specified in the Guidelines.
11. **SEP Award Termination.** Grantee acknowledges that this Agreement and SEP

payments under this Agreement may be terminated for reasonable cause pursuant to the Guidelines by providing 30-day written notice to the Grantee contact specified in paragraph 11. Consistent with the Guidelines, reasonable cause includes the following:

- Grantee's failure to maintain certification as an eligible renewable resource or knowingly providing false or misleading information about itself or the facility, as determined by the Energy Commission, in facility's application for certification.
- Termination of the power purchase contract referenced in paragraph 1 of this Agreement for any reason.
- The power purchase contract referenced in paragraph 1 of this Agreement is modified or renegotiated such that the total energy price paid under the power purchase contract is below the applicable market price referent.
- Insufficient funds in the Energy Commission's Renewable Resource Trust Fund to adequately fund this Agreement.

12. **Supplemental Energy Payments.** Grantee acknowledges that its eligibility to receive SEPs under this Agreement shall be contingent upon its satisfaction of all terms and conditions set forth in the Guidelines and this Agreement.

13. **Invoicing.** Grantee shall invoice for payments under this Agreement in accordance with the procedures specified in the applicable Guidelines.

14. **Records Retention.** Unless stated otherwise in the applicable Guidelines, Grantee shall:

- keep all records relating to and verifying the accuracy of information stated in an invoice for payment submitted pursuant to this Agreement for a period not less than three years after the end of the calendar year in which payment for the invoice is made;
- keep all records relating to and verifying the accuracy of information stated in a report submitted to the Energy Commission pursuant to the Guidelines for a period not less than three years after the end of the calendar year in which the report is submitted; and
- keep all records relating to and verifying the overall usage, on a total energy input basis, of all fossil fuels and non-fossil fuels used to generate electricity in a given calendar year for a period not less than four years after the end of that calendar year.

15. **Grantee Contact.** Grantee's contact under this Agreement shall be _____ . Any notice to Grantee under this Agreement shall be forwarded to the Grantee contact at the following address:

16. **Energy Commission Contact.** The Energy Commission's contact under this Agreement shall be _____. Any notice to the Energy Commission under this Agreement shall be forwarded to the Energy Commission contact at the following address:

California Energy Commission
1516 Ninth Street, MS-____
Sacramento, California 95814
Attn: _____

17. **CEQA Review.** The Energy Commission has reviewed the _____ Facility and finds that:

- The Facility has complied with California Environmental Quality Act ("CEQA") and/or National Environmental Policy Act ("NEPA"), or
- The Facility is exempt from CEQA and/or NEPA under _____

18. **Prevailing Wage.** For purposes of this paragraph, "public works" means construction, alteration, demolition, installation, and/or repair work over \$1,000 but does not include maintenance work; and "Contractor" means all contractors and subcontractors that perform public works activities on the Facility.

A. Grantee/General Requirements

a) Pursuant to California Public Utilities Code section 399.14 (h) and applicable law, Grantee shall comply with state prevailing wage law, Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720; and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000, for any public works activities performed on the Facility funded by this Agreement. For purposes of compliance with the prevailing wage law, Grantee is the "awarding body" as defined in California Labor Code section 1722 and shall comply with the provisions applicable BOTH to recipients of public funds AND the provisions applicable to an awarding body. As such, Grantee agrees to ensure compliance with the state prevailing wage law, including without limitation:

- 1) Determining work activities and trades subject to the requirement to pay prevailing wage under the prevailing wage law;
- 2) Ascertaining applicable prevailing wage rate for each covered worker performing work activities subject to the prevailing wage law on the Facility;
- 3) Specifying in calls for bids, bid specifications, and construction contracts the applicable prevailing wage;
- 4) Ensuring all contracts for public works activities for the Facility include appropriate flowdown provisions;
- 5) Posting the applicable prevailing wage information at each job site of the Facility;
- 6) Ensuring payment of prevailing wage, as applicable;

- 7) Complying with overtime and working hour requirements;
- 8) Complying with apprenticeship obligations;
- 9) Complying with payroll recordkeeping requirements;
- 10) Withholding payments from contractors as necessary to satisfy wage and penalty assessments issued by the Labor Commissioner; and
- 11) Complying with other obligations as required by law.

b) Grantee shall submit to the Energy Commission within 90 days of completing the Facility's construction a certification signed by Grantee and all contractors performing public works activities on the Facility certifying that prevailing wages were paid as required by law. The certification shall be as provided in Exhibit B.

c) Grantee shall submit to the Energy Commission, as part of any payment request or invoice, a certification stating i) that prevailing wages were paid for public works activities performed for the Facility during the period covered by the invoice, and ii) that Grantee and all involved contractors complied with the prevailing wage law.

B. Flow Down Requirements

Grantee shall ensure that all agreements with contractors for public works activities on the Facility contain the following provisions:

a) Contractor shall comply with state prevailing wage law, Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720; and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000, for all construction, alteration, demolition, installation, or repair work over \$1,000 performed under the contract. Contractor's obligations under prevailing wage laws include without limitation:

- 1) Payment of not less than the applicable prevailing wage for public works activities performed for the Facility;
- 2) Compliance with overtime and working hour requirements;
- 3) Compliance with apprenticeship obligations;
- 4) Compliance with payroll recordkeeping requirements; and
- 5) Compliance with other obligations as required by law.

b) Contractor shall ensure that the above requirements are included in all subcontracts for public works activities for the Facility.

19. Understanding of Guidelines. Grantee warrants that it has read and understands the Energy Commission's Guidelines and acknowledges that these Guidelines govern the payment of any funds under this Agreement and authorize the Energy Commission to terminate the Agreement or any SEP payments under the Agreement for reasonable cause, to conduct random audits of Grantee's invoices for SEP payments, to conduct inspections of Grantee's Facility and books as part of these audits, to initiate enforcement actions to recover any SEP payments the Grantee was not otherwise entitled to receive, to initiate investigations of Grantee to verify fraud or misrepresentation in connection with Grantee's application for or receipt of this

Agreement or any payments of SEP, or to take action as authorized by the Guidelines to properly administer the New Renewables Facilities Program. Grantee further understands that the Energy Commission Guidelines are subject to change pursuant to Public Resources Code Section 25747 and that any changes made to the Guidelines shall apply to Grantee and the payment of SEP under this Agreement.

20. **Law Governing.** This Agreement shall be interpreted, governed, and construed under the laws of the State of California.

Signature of Facility Representative
Title_____

Signature of Energy Commission Representative
Title_____

**DRAFT SAMPLE SUPPLEMENTAL ENERGY PAYMENT (SEP)
AWARD AGREEMENT**

**EXHIBIT A
FACILITY DESCRIPTION**

**DRAFT SAMPLE SUPPLEMENTAL ENERGY PAYMENT (SEP)
AWARD AGREEMENT**

**EXHIBIT B
PREVAILING WAGE COMPLIANCE CERTIFICATION**

This certificate is to be completed by Grantee, signed by Grantee and all involved contractors and subcontractors, and submitted to Energy Commission within 90 days of completing any "public work" activities covered by Public Utilities Code section 399.14 (h).

Grantee: _____

Energy Commission SEP Award Agreement Number:

Facility: _____

Date Facility Construction Completed: _____

Grantee hereby certifies as follows:

1. Consistent with California Public Utilities Code section 399.14 (h), all contracts and subcontracts to perform public works activities subject to the state prevailing wage law for the above referenced Facility contained provisions requiring the contractors and subcontractors to comply with prevailing wage law and pay prevailing wages and comply with applicable record keeping and apprenticeship requirements in accordance with the requirements of the California Labor Code.
2. Prevailing wages have been paid as required by law.
3. All construction contractors and subcontractors have maintained labor records as required by the Labor Code and such records shall be made available to the Energy Commission upon request.
4. The undersigned Grantee acknowledges that disbursement of any payments of SEP under the above noted Agreement by the Energy Commission is expressly made in reliance upon the representations made in this certification.

Grantee:

Signature: _____

Printed/Typed Name: _____

Title: _____

Date: _____

Each contractor and subcontractor performing work activities subject to the prevailing wage law for the above referenced Facility must sign below. Include additional pages if necessary.

Contractor and Subcontractors hereby certifies as follows:

1. The contract with Grantee to perform work activities subject to the prevailing wage law for the above referenced Facility contained provisions requiring the contractor and all its subcontractors to comply with prevailing wage law, pay prevailing wages, and comply with applicable record keeping and apprenticeship requirements in accordance with the requirements of the California Labor Code.
2. Prevailing wages have been paid as required by law.
3. Construction contractor and all its subcontractors have maintained labor records as required by the Labor Code and such records shall be made available to the Energy Commission upon request.
4. The undersigned construction Contractor acknowledges that disbursement of any payments of SEP under the above noted Agreement by the Energy Commission is expressly made in reliance upon the representations made in this certification.

Construction Contractor

Signature: _____

Printed/Typed Name: _____

Title: _____

Date: _____

Construction Contractor

Signature: _____

Printed/Typed Name: _____

Title: _____

Date: _____

Appendix B - Acronyms

AB	—	Assembly Bill
CCA	—	community choice aggregator
CEQA	—	California Environmental Quality Act
CPUC	—	California Public Utilities Commission
CTC	—	competitive transition charge
DIR	—	Department of Industrial Relations
ESP	—	electric service provider
IOU	—	investor-owned utility
ISO	—	Independent System Operator
kWh	—	kilowatt-hour
LCBF	—	least-cost best-fit
LFG	—	landfill gas
MPR	—	market price referent
MSW	—	municipal solid waste
MW	—	megawatt
MWh	—	megawatt-hour
NEPA	—	National Energy Policy Act
NERC	—	North American Electric Reliability Corporation
NRFP	—	New Renewable Facilities Program
PGC	—	Public Goods Charge
PG&E	—	Pacific Gas and Electric Company
PPA	—	power purchase agreement
PV	—	photovoltaic
REC	—	renewable energy credit/certificate
REP	—	Renewable Energy Program
RPS	—	Renewable Portfolio Standard
SB	—	Senate Bill
SCE	—	Southern California Edison Company
SDG&E	—	San Diego Gas and Electric Company
SEP	—	supplemental energy payment
TIN	—	taxpayer identification number
TOD	—	time of delivery
WECC	—	Western Electricity Coordinating Council