

**BEFORE THE CALIFORNIA ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

Implementation of Renewables
Portfolio Standard Legislation (Public
Utilities Code Sections 381, 383.5, 399.11
through 399.15, and 445; [SB 1038],
[SB 1078])

Docket No. 03-RPS-1078
RPS Proceeding

and

Implementation of Renewables
Investment Plan Legislation (Public
Utilities Code Sections 381, 383.5,
and 445 [SB 1038])

Docket No. 02-REN-1038
Renewable Energy Program

**PACIFIC GAS AND ELECTRIC COMPANY COMMENTS
REGARDING GUIDEBOOKS ON
RENEWABLE PORTFOLIO STANDARD IMPLEMENTATION**

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**PACIFIC GAS AND ELECTRIC COMPANY COMMENTS
REGARDING GUIDEBOOKS ON
RENEWABLE PORTFOLIO STANDARD IMPLEMENTATION**

Pacific Gas and Electric Company (PG&E) respectfully submits the following comments regarding the California Energy Commission's (CEC) Guidebooks on Renewable Portfolio Standard (RPS) implementation, in advance of the April 21, 2004 business meeting, at which the CEC is scheduled to take action on the Guidebooks.¹

PG&E appreciates the work that CEC staff has put into the Guidebooks. We support its conclusions, with two exceptions:

- First, PG&E is concerned with the feasibility of authorizing the Investor Owned Utilities (IOUs) to certify that renewable facilities under existing Power Purchase Agreements (PPAs), including certain Qualifying Facilities(QFs) and small hydro resources, meet RPS eligibility requirements.
- Second, PG&E continues to recommend a “soft” proportional allocation of Supplemental Energy Payment (SEP) funds to retail sellers to facilitate the ability of each obligated entity to meet its annual procurement target (APT).

Certification Process

PG&E previously expressed concern that renewable facilities under existing PPAs have no contractual obligation and little incentive to pursue renewable certification on their own behalf. The CEC staff has responded by enabling the utilities to seek certification on behalf of such generators. However, the staff has substituted one obstacle for another in the verification

¹ The three final Draft Guidebooks are the 1) Renewable Portfolio Standard Eligibility Guidebook, 2) New Renewable Facilities Program Guidebook, and 3) Overall Program Guidebook for the Renewable Energy Program.

process. Although staff proposes to authorize utilities to seek certification of a generator's renewable nature on behalf of the generator, the utility must deliver the generator's consent to inspection by the CEC as a condition of certification.²

This requirement essentially denies the utility the ability to obtain certification of its baseline renewable generation on behalf of its providers because, as initially observed by PG&E, the generator has no contractual obligation to comply or incentive to cooperate with this RPS requirement. The generator will continue to be paid for delivering RPS-eligible energy to the grid, regardless of whether it has been certified as a renewable resource. The same holds true if the utility is empowered to seek certification on behalf of the generator. The generator is disinterested in the outcome, and has no legal obligation or incentive to provide the utility with what amounts to a warrant for CEC inspection of its facilities.

A better solution would be to allow the utilities to attest to whether the resources that have delivered power to the utilities under existing contracts are renewable. The information for these projects is clearly available in the annual Utility Procurement of Renewable Energy Report and the semi-annual Cogeneration and Small Power Production Report submitted by the utilities to the California Public Utilities Commission.³ These reports detail the resource type, on-line date, and quantity of energy delivered to the utility. The CPUC requires the utilities to file such reports, and the CPUC's Rules of Practice and Procedure attest to the reliability of these reports.⁴

² "To the extent that an IOU applies for certification on a facility's behalf, the IOU must secure and have available for inspection records to verify the application for certification or pre-certification. In addition, the IOU must secure from the facility the Energy Commission's right to conduct on-site audits and facility inspections to verify compliance with the requirements of certification and pre-certification." (Final Draft Guidebook, redlined version at 23)

³ The semi-annual report is posted on PG&E's website, http://www.pge.com/suppliers_purchasing/qualifying_facilities/cogeneration/index.html

⁴ "Any person who signs a pleading or brief, enters an appearance at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the laws of this State ... and never to mislead the Commission or its staff by an artifice or false statement of fact or law." (CPUC Rule 1).

In addition, PG&E will begin filing the SB 1305 Power Content Label Compliance Report in the Spring of 2005. Furthermore, the majority of these existing renewable resources are QFs that are required to maintain eligibility as a small power producer or a renewable-based QF as a condition of payment under their existing power purchase agreements; the remainder are small hydro projects whose eligibility can be readily verified from their FERC licenses.

Thus, renewable facilities under existing contracts should automatically qualify as “eligible renewable resources” for purposes of RPS compliance. The IOUs, as parties to these power purchase agreements, should be allowed to “grandfather” the deliveries under these contracts through a blanket certification process. No further administrative burdens should be imposed on the IOUs, as there is little conceivable benefit to be gained. If the CEC nonetheless desires the ability to conduct on-site audits of the renewable facilities under existing PPAs, PG&E respectfully suggests that it coordinate with the CPUC.

SEP Allocation

In previous comments to these draft guidebooks and the Phase II Report, PG&E expressed its concern that SEP funds might be exhausted early in a year or following any one IOU’s solicitation. PG&E suggested that the Commission adopt a “soft” allocation proposal that would allocate funds roughly in proportion to an obligated entity’s load for a limited period of time matching its compliance flexibility window. This type of allocation would avoid the problems inherent in a first-come, first-serve “gold rush” and would facilitate a more orderly, sequenced process. It would also give the IOU’s ratepayers the benefit of their contribution. A soft allocation would promote a fair opportunity for each obligated entity to meet its APT obligations in the most effective manner, while at the same time ensuring that all SEP funds be used to maximize renewable development without delay.

The CEC's final draft Guidebooks continue to defer this important issue. In fact, the CEC has potentially exacerbated the situation by redirecting over \$30 million away from the SEP fund without any explanation or compensating mechanism.⁵ Considering that the Collaborative Staff and the other stakeholders are pushing for an RPS solicitation in the coming months, the CEC should address this important issue now.

In conclusion, PG&E encourages the CEC to adopt a certification process for baseline resources that recognizes the inherent renewable nature of non-cogeneration QFs and other existing renewable PPAs, and avoid substituting one obstacle for another in the verification process. The CEC should also officially recognize the problems with a first-come, first serve SEP allocation process and take immediate steps to implement a soft proportional allocation of SEP funds, especially considering the imminent onset of the RPS solicitations.

⁵ See final Draft Overall Program Guidebook March 2004, pages 6-7