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California Energy Commission
Docket Office
Attn: Docket No. 03-RPS-1078 and 02-REN-1038
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

Re: Comments of Pacific Gas and Electric Company on Proposed Changes to the Renewables Portfolio Standard Guidelines and Procurement Verification Report

Pacific Gas and Electric Company (PG&E) respectfully submits the following comments on the Renewables Committee's December 7, 2005, workshop and the associated reports regarding proposed changes to the renewables portfolio standard guidelines and procurement verification.

Thank you for considering our comments. Please feel free to call me at (415) 973-6463 if you have any questions about this matter.

Sincerely,

Les Guliasi

Les Guliasi

Attachment

Comments of Pacific Gas and Electric Company
In Dockets No. 03-RPS-1078 and No. 02-REN-1038

Comments on Proposed Changes to the Renewables Portfolio Standard Guidelines and Procurement Verification Report, as Presented in the CEC Renewables Committee Workshop on December 7, 2005

1. Introduction

CEC Staff has issued a draft Renewables Portfolio Standard (RPS) Procurement Verification Report (Verification Report) and proposed changes to the Renewables Portfolio Standard Eligibility Guidebook (Eligibility Guidebook), New Renewable Facilities Program Guidebook (NRFP Guidebook), and the Overall Renewable Energy Program Guidebook. PG&E submits it comments on the draft report and proposed revisions to the guidebooks herein.

2. The Proposed Description of the RPS Program in the Draft NRFP Guidebook Should Be Flexible Enough to Accommodate Changes to the CPUC's RPS Process

The proposed revisions to the NRFP Guidebook include additional detail regarding the CPUC's process for implementing the RPS. While the CEC has indicated that the description is intended to reflect CPUC decisions, PG&E is concerned that this detailed description will quickly become outdated as the RPS process evolves at the CPUC. PG&E recommends that the proposed description of the RPS program be stated in more general terms to avoid inconsistencies with the CPUC's adopted process.

For example, the proposed language provides that the CPUC announces the market price referent after the IOUs select their initial short list of bidders (p. 4, 10). The CPUC, however, is presently considering whether to move up this disclosure of the MPR to after the date bids are due for all IOUs' solicitations. The only formal restriction on the timing

of disclosure is contained in the RPS statute, which provides that the CPUC may determine the market price referent after the closing date of the utilities' solicitations (Section 399.14(a)(2)(A)). PG&E, therefore, recommends that the proposed language be revised to state "The CPUC is required to announce the market price referent that applies to the current year RPS solicitations at a time after the utilities' solicitations close."

As another example, the proposed text indicates that the utility will file an advice letter for contract approval at the CPUC after the developer has sought Supplemental Energy Payments (SEP) from the CEC (p. 5). The utilities, however, are not required to delay the filing of their advice letters until this time. In fact, the CPUC decision describing this process provides that the utilities would file their advice letters prior to the developers seeking SEP funding. Moreover, in order to streamline the process, the utilities and developers should have the flexibility to proceed with advice letter filings and the SEP application process concurrently. PG&E, therefore, recommends that the proposed language be revised to delete any reference to the order of the advice letter and SEP application process.

Overall, the NFRP Guidebook's description of the RPS program should be flexible enough to accommodate changes in the details of the RPS process. As the relevant players gain experience with the RPS, PG&E is hopeful that continued efforts will be made to make the process more efficient. A general description of the RPS program will therefore avoid inconsistencies with improvements to the process.

3. The NRFP Guidebook Should Not Require Disclosure of SEP Award Information After Contract Approval by the CPUC

The NRFP Guidebook provides that after an RPS project requiring SEPs is approved by the CPUC, the CEC will disclose the name of the seller, the procuring utility and the total anticipated SEP award and incentive level (p. 5, 11). PG&E recommends that the final Guidebook provide that this information be disclosed at a later time to protect the interests of PG&E and its customers.

Disclosure of the SEP award information would allow market participants to derive the overall price of the project. The release of this information would harm PG&E and its customers in the current RFO and later procurement efforts, because it would provide the market with information concerning the price of accepted bids and the bid prices offered by other suppliers. Releasing this information at this time could even disadvantage PG&E in its negotiations with other bidders to the same RFO. This pricing information is particularly sensitive given the aggressive goal set forth for RPS procurement of 20% by 2010. PG&E is also concerned that the disclosure of the price of the project will discourage viable developers that do not want this market sensitive information released from participating in California's RPS.

This market sensitive pricing information constitutes trade secrets that are not required to be disclosed pursuant to Public Records Act, Govt. Code section 6254(k) and Evidence Code section 1060. This information is also protected under the catch-all provision in Public Records Act, Govt. Code section 6255 because the public interest served by not disclosing this information outweighs the interest served by disclosing this information. Release of this information would also be inconsistent with the CPUC's determination that

contract price should be protected from disclosure (D.04-06-014 providing that price is a confidential contract term).

Although PG&E continues to maintain that contract pricing information should be protected from public disclosure indefinitely, PG&E acknowledges the CEC's concern that the SEP Award aspect of the RPS represents a unique circumstance. PG&E, therefore, proposes that the Guidebook provide that the SEP Award information be kept confidential until the later of:

1. Three years from contract execution; or
2. The final awards for all projects contracting with the utilities from a particular year's solicitations have been granted.[1]

4. The Draft Eligibility Guidebook Should Accurately Reflect the Respective Roles of the CEC and CPUC on Verification and Compliance.

The Verification Report correctly states that the CPUC is responsible for determining the utilities' compliance with the RPS consistent with the CPUC's flexible compliance rules (p. 3). CEC staff also acknowledged at the Workshop that compliance is the CPUC's responsibility. The proposed revisions to the draft Eligibility Guidebook, however, indicates that the utilities should report to the CEC the amount of over- or under-procurement and the amount drawn from banked procurement from prior years (p. 37; Appendix A). The draft CEC-RPS Track form also seeks this information. This compliance flexibility information, however, is not needed for the CEC to track and verify the utilities' RPS procurement. Given that the utilities will be providing this information to the CPUC and the CPUC will be addressing the utilities' compliance with the RPS, the value of also independently providing this information to the CEC is unclear. PG&E

[1] The final award is made by the CEC once the contract is approved by the CPUC and the facility completes any required environmental review of the renewable facility under NEPA and/or CEQA.

recommends that rather than also independently reporting this information to the CEC, the utilities continue to provide this information to the CPUC in their compliance filings for resolution in the CPUC RPS docket with a copy of those filings provided to the CEC. This approach will allow the CEC to timely receive this information and will avoid duplication and potential inconsistency between the two agencies.[2]

5. Inconsistencies and Errors in the Data Reported for PG&E in the Draft Verification Report Should be Corrected Prior to Issuance of the Final Report

PG&E has identified several inconsistencies and errors in data reported for PG&E in the draft report. PG&E understands from the CEC Workshop that the CEC does intend to issue a final report in January that will set forth the total, baseline, and incremental procurement amounts for PG&E for years 2003 through 2004. PG&E believes that the correction of these discrepancies is necessary to ensure an accurate depiction of PG&E's RPS procurement in the final report. PG&E appreciates the willingness of CEC Staff to work collaboratively on these issues and is hopeful that they can be resolved prior to the issuance of the final report.

The discrepancies in the draft report include inconsistencies between PG&E and CEC data and also within various parts of the report. For example, the report misclassifies baseline procurement and incremental procurement, contains computational errors and contains inaccurate amounts and percentages of renewable energy procured compared to retail sales and the targets (See Tables, 3, 4, 5, 6, 18 and 22). The CEC-RPS Tracking forms for these years did not categorize procurement as either incremental or baseline and, as a result, many of these discrepancies may simply be the result of the need for more detail. These

[2] For example, at the workshop, UCS and SDG&E identified an error in the Verification Report that would preclude a utility from using banked procurement to satisfy a future year's IPT (p. 4). CEC Staff acknowledged this problem and indicated it would be resolved in the final report.

examples are the types of issues that PG&E would like to reconcile through discussions with CEC staff prior to issuance of the final report.

In addition, the CPUC plans to resolve remaining issues regarding RPS counting and compliance in early 2006. The outcome of this phase is likely to modify the methodology used to determine the amounts reported for each year in the Verification Report. The final report should therefore state that changes may be necessary to reflect the results of this phase.

In future years, this process should be improved by further clarification from the CPUC on the counting rules and the CEC-RPS Tracking Forms including the identification of procurement as either incremental or baseline. PG&E also recommends that the CEC establish a process that involves the CEC staff and utilities working together early on to ensure questions and inconsistencies are resolved. PG&E proposes that this collaborative process be identified in the Verification Report.

6. Conclusion

PG&E respectfully requests that the CEC adopt the foregoing recommendations and looks forward to continuing to work with the CEC on RPS issues.