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December 09, 2005

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 05-RPS-1078
1516 Ninth Street
Sacramento, CA 95814-5512

Dear Commission:

Re: Southern California Edison's Comments on the Proposed Changes to the Renewables Portfolio Standard Guidelines and the Procurement Verification Report

Southern California Edison (SCE) appreciates the opportunity to provide the following comments on the Proposed Changes to the Renewables Portfolio Standard Guidelines and Procurement Verification Report.

Renewables Portfolio Standard Procurement Verification Report - Staff Draft Report

The draft Verification Report states on Page 8:

> "In calculating the percentage of retail sales for the RPS for 2001, the 2001 baseline was divided into the IOU's retail sales in 2001. Staff calculated the 2003 percent of retail sales that are RPS eligible by dividing 2003 RPS procurement by 2001 retail sales. To calculate the 2004 percent of retail sales, 2004 procurement is divided into the 2003 retail sales totals. This approach is consistent with the CPUC Decision 02-10-062 in which the 2003 IPT is calculated based on 1 percent of 2001 retail sales for the IOUs."

This treatment is inconsistent with what is in the Power Content Label calculations, and what would traditionally be utilized. SCE recommends that the percent of retail sales that is comprised of renewable resources be determined on a common year basis, *i.e.* 2004 procurement should be divided by the 2004 retail sales to determine the 2004 percentage. SCE believes that

the CPUC decision cited was a transitional mechanism to make things work temporarily and expects that the CPUC will revert to more common calculations in later years.

The draft Verification Report states on Page 9:

> "If the contract ended and the generator executed a contract with a different IOU, the second IOU could count procurement in the first 12 months towards its IPT, and the generation would no longer count towards the first IOUs baseline, assuming there were no sales to the first IOU."

While this seems to be a reasonable approach, it seems to create an opportunity for constantly increasing prices to the ratepayers with no offsetting benefit. Assume that IOU_1 has a contract with Developer XYZ from which it purchased 100 GWh of energy in 2005. This contract ends in December 2005. XYZ bids into both IOU_1 and IOU_2 solicitations. XYZ will likely bid a low price to IOU_1 as a safety net bid to assure that they have a contract and bid a higher price to IOU_2. IOU_2 may accept the higher bid because it has a need for incremental resources, while if they don't the project will be able to fallback on the bid made to IOU_1. The result is that the ratepayers pay more for the renewable power that was already in existence. There will be no net increase in renewable resources, but prices will be higher. This should be changed so that (1) neither IOU is able to count the project as incremental or (2) either IOU can count the project incremental.

In this Report, on page 13 "Table 2: Estimate SCE's 2004 Incremental Geothermal Procurement", estimates SCE's 2004 incremental geothermal to be 352,517 (MWh). However, on page 16, "Table 7: SCE RPS Procurement", indicates SCE has an incremental procurement of only 79,136 MWh, while "Table 23: SCE 2004 Procurement for IPT by Fuel Type", indicates 0 MWh of incremental procurement for geothermal in 2004. All figures appear to be inconsistent. SCE would like clarification on these inconsistencies. There are similar inconsistencies elsewhere in the report.

2004 Incremental Calpine Geothermal Energy

The CEC bases its calculation of incremental on the nameplate capacity rather than the operating capacity provided by Calpine. Because the operational capacity is less than the nameplate, the CEC's estimate of incremental energy is less than that derived by SCE. The

attached table demonstrates 2 alternative estimates of incremental energy based on alternative initial capacities.

The CEC does not estimate any incremental energy for Unit 11, but footnote 7 states "Calpine Geothermal Unit 11 is a repowered facility. Consequently, the **electricity procured from Unit 11 is not restricted to baseline or adjusting the baseline**." [emphasis added] Yet in Table 2, the CEC does not provide any credit for Unit 11 in column 6 "2004 Estimated Incremental Geothermal Procured (MWH)" In discussions with CEC staff, SCE understands that such energy from Unit 11 is counted towards SCE 2004 IPT, but it is not clearly identified in the report. SCE requests that this be clarified in the Verification report.

Additionally, SCE has filed with the CPUC a Petition for Rehearing of D.05-07-039 regarding the RPS accounting treatment of the Geysers contract. SCE understands that the CPUC intends on responding to our Petition for Rehearing in early 2006. SCE recommends waiting to publish this report until after the CPUC disposes of SCE's petition.

Overall Renewable Energy Program Draft Guidebook

SCE has no recommended changes to the Overall Program Guidebook.

New Renewable Facilities Program - Draft Guidebook

The New Renewable Facilities Program Guidebook has been drafted to state:

> "Contract negotiations differ on a case-by-case basis and, consequently, 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, the IOUs 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 the IOUs' RPS solicitations."

This statement is in and of itself a reasonable request. However, the timing of providing such information is what the significant policy issue is. Currently, SCE maintains its list of bidders and its short-listed bidders as confidential to comply with the Non-Disclosure Agreements (NDAs) signed with each of the bidders in the solicitation and to protect the trade secrets of the individual bidders. SCE is willing to work with the CEC to provide information that is required

for the CEC to make reasonable and knowledgeable decisions about the SEPs required for implementing the RPS program. However, SCE cannot and will not provide confidential information to the CEC that is likely to be disclosed.

Later, this draft Guidebook, see page 10, states:

"The CPUC will announce the market price referents that apply to the current year RPS solicitation after the IOUs select their "short-list" of bidders with whom the IOUs may be interested in pursuing contract negotiations. For short-listed bids priced under the market price referent, the IOU must submit a completed response to the Energy Commission's Short List Data Request (CEC-SEP-1) to provide aggregated information on the bids. The data requested includes: the total number of facilities; the weighted average price represented by the bids; the percentage of the IOUs APT represented by the bids; the amount of electricity bid; and the percentage of the generation bid that would be require new transmission. For each short-listed bid above the market price referent, the IOU must report the total amount of generation per year, applicable market price referent, contract term, and other specific data as required (CEC-SEP-2). This information is necessary for the Energy Commission to make informed decisions when allocating SEPs to individual applicants."

Form CEC-RPS-2 requires short-listed bid information including the particular bid prices. Both CEC Data Request forms contain the following legal statement: "Information submitted to the Energy Commission is subject to public disclosure unless designated confidential pursuant to the Energy Commission's confidentiality regulations 20 CFR section 2505."
SCE and other IOUs have an on-going dispute with the CEC regarding their confidentiality regulations. Submitting this information subject to public disclosure will impair the RPS solicitations from being a competitive award process. SCE is willing to work with the CEC to provide information that is required for the CEC to make reasonable and knowledgeable decisions about the SEPs required for implementing the RPS program. However, SCE cannot and will not provide confidential information to the CEC that is likely to be disclosed.

Later on that same page, the document states

"The Energy Commission will notify the CPUC, the IOU and sellers of the availability of PGC funds within 30 days of receiving all data needed to conduct this evaluation. The Energy Commission will notify the bidder, utility and the CPUC about whether the full SEP request will be met, or what portion of the requested SEPs could be met, and , if the SEP award does not cover the full contract price, the utility and bidder have an opportunity to re-negotiate the contract terms. After contract requiring SEPs are

approved by the CPUC, the Energy Commission will publish information on its webpage identifying the names of the sellers, the procuring IOUs, and the total anticipated SEP awards and incentive levels"

This fundamentally provides the bid prices by project to public disclosure. If one has the MPR and the amount of the SEPs, one can easily combine the two and ascertain the total bid price for each project. This is totally unacceptable and exposes the ratepayers to gaming in the subsequent solicitations.

SCE would appreciate the opportunity to explore other avenues to resolve these confidentiality issues, without exposing particulars of specific projects to other potential bidders.

Renewables Portfolio Standard Eligibility Draft Guidebook

On page 13, under the heading of **Small Hydroelectric**, the draft guidebook states that:

"4. If the facility was owned by an IOU as of September 12, 2002, or its generation procured by an IOU as of September 12, 2002, its generation is eligible only for purposes of establishing or adjusting an IOU's RPS baseline. The facility's generation may not be used for meeting an IOU's annual procurement target, unless adjusting the IOU's baseline results in the IOU being at or above the 20 percent target."

SCE recommends that the last sentence be revised to state

The facility's generation may not be used for meeting an IOU's ~~annual~~ incremental procurement target, unless adjusting the IOU's baseline results in the IOU being at or above the 20 percent target."

On page 19 under the heading of **Eligibility for Supplemental Energy Payments**, the draft Guidebook has added the following:

"3. If a facility has an existing long-term contract originally entered into before September 26, 1996, then only generation that is above and beyond what is already under contract, as determined in accordance with Public Utilities Code Section 399.6 (c)(1)(C), may compete to satisfy the RPS obligation of an IOU."

It is unclear what this statement has to do with eligibility for Supplemental Energy Payments. SCE recommends that this statement be revised to indicate something about the eligibility for the project to receive SEPs, then it may be acceptable.

Finally, much of the discussion in the section **Reports to the Energy Commission** deals with numerous accounting issues that are, as SCE understands, the subject of workshops at the CPUC in January 2006. Based on the outcome of those workshops, the reporting requirements may change or definitions may be altered, which would modify the requirements that the CEC desires to have submitted. SCE recommends that the CEC await the outcome of those workshops prior to issuing this guidebook.

If you have any questions regarding these comments, please call me at (916) 441-2369.

Sincerely,

Manuel Alvarez

cc: Commissioner John L. Geesman
Commissioner Jackalyne Pfannenstiel
Chairman Joseph Desmond
Commissioner James Boyd
Commissioner Arthur H. Rosenfeld