STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

Implementation of Renewables Portfolio Standard Legislation (Public Utilities Code Sections 381, 383.5, 399.11 through 399.15, and 445; [SB 1038], [SB 1078], [SBx2])	))))	Docket No. 03-RPS-1078

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COMMENTS OF THE UTILITY REFORM NETWORK ON SBx2 IMPLEMENTATION FOR PUBLICLY OWNED UTILITIES

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COMMENTS OF THE UTILITY REFORM NETWORK ON SBx2 IMPLEMENTATION FOR PUBLICLY OWNED UTILITIES

In response to the June 7, 2011 notification, The Utility Reform Network (TURN) submits these comments on issues to be considered in adopting guidelines and regulations applicable to compliance by Publicly Owned Utilities (POUs) with the 33% Renewable Portfolio Standard (RPS) program enacted by SBx2 (Simitian). TURN offers specific feedback on one element of the staff presentation at the June 17 workshop.

Pursuant to the requirements of SBx2, each POU must submit procurement plans to the Commission and establish procurement targets for each compliance period through 2020. The Commission has an obligation to ensure that these plans, and the targets adopted by each POU, are in full compliance with the statutory requirements. In particular, POUs must establish targets consistent with law and comparable to those adopted by the CPUC for retail sellers.

The June 17 staff presentation does not accurately describe the requirements contained in statute.[1] For the first compliance period (2011-2013), the cumulative procurement obligation is explicitly set at 20% of retail sales for each of the three years.[2] For the next two compliance periods (2014-2016, 2017-2020), the POU must establish targets based on cumulative quantities of procurement that "reflect reasonable progress in each of the intervening years sufficient to ensure" the achievement of 25% by 2016 and 33% by 2020.[3] By contrast, the staff presentation merely states that the plans must ensure that "procurement achieves 25% of retail sales" by 2016 and 33% of retail sales by 2020.[4] This description omits reference to the need to assume "reasonable progress" during intervening years in calculating the overall procurement target.

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[1] California RPS for Publicly Owned Electric Utilities: Energy Commission Regulations, June 17, 2011 staff presentation, page 13.
[2] Cal. Pub. Util. Code §399.30(c)(1).
[3] Cal. Pub. Util. Code §399.30(c)(2).
[4] California RPS for Publicly Owned Electric Utilities: Energy Commission Regulations, June 17, 2011 staff presentation, page 13.

In enacting this requirement, the Legislature intended to require both retail sellers and POUs to meet multi-year cumulative requirements that include the assumption of annual progress towards the final year target (25% or 33%). It would be inappropriate, and contrary to law, for POUs to submit renewable procurement plans that contained a flat "stair-step" approach to targets and timetables. In other words, the plans must assume progress during each intervening year for purposes of determining the overall multi-year targets that form the basis for compliance.

TURN is concerned that some POUs may submit plans that propose a 20% renewable energy portfolio from 2011-2015, a 25% portfolio from 2016-2019 and a 33% portfolio beginning in 2020. Such compliance targets would severely degrade the expected impact of the RPS program by allowing POUs to demonstrate compliance by merely maintaining a 20% renewable portfolio for six consecutive years (2010-2016). This approach would violate the law and should be rejected by the Commission.

The Commission should coordinate with the Public Utilities Commission to establish uniform principles governing the application of the "reasonable progress" requirement to all retail sellers and POUs. Absent such uniformity, POUs have an incentive to propose lower cumulative targets than would apply to similarly situated retail sellers. Even POUs that intend to procure above such minimum targets are motivated to propose lower compliance requirements in order to retain the option to sell or bank excess procurement. The Commission should take early action to avoid such a result and ensure that POUs and retail sellers are placed on equal footing for purposes of RPS timetables and targets.

TURN looks forward to working with both Commissions to develop such uniform principles.

Respectfully submitted,

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