

From: Kamins, Sara M.  
Sent: 3/23/2010 10:14:59 AM  
To: Allen, Meredith (/O=PG&E/OU=Corporate/cn=Recipients/cn=MEAe)  
Cc:  
Bcc:  
Subject: RE: ERR, Delivery & Cost Recovery

11 works. I was thinking a call, but if you want to come in that's fine too. Just let me know what you prefer.

Thanks,

Sara

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Sara Kamins

Renewables Portfolio Standard (RPS)

California Public Utilities Commission

(415) 703-1388

<http://www.cpuc.ca.gov/renewables>

**From:** Allen, Meredith [mailto:MEAe@pge.com]  
**Sent:** Tuesday, March 23, 2010 10:09 AM  
**To:** Kamins, Sara M.  
**Subject:** RE: ERR, Delivery & Cost Recovery

11:00 tomorrow works for us. Should we plan to meet you at the CPUC or would a call work better for you? It may be easier to meet in person to review the language but either way works for us.

Thanks,  
Meredith

**From:** Kamins, Sara M. [mailto:sara.kamins@cpuc.ca.gov]  
**Sent:** Tuesday, March 23, 2010 9:54 AM  
**To:** Allen, Meredith  
**Subject:** RE: ERR, Delivery & Cost Recovery

Sorry, 4 actually doesn't work now. Anytime between 130 and 330 today or tomorrow between 930 and 1?

Thanks,

Sara

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Sara Kamins

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**From:** Allen, Meredith [mailto:MEAe@pge.com]

**Sent:** Monday, March 22, 2010 7:38 PM

**To:** Kamins, Sara M.

**Cc:** Simon, Sean A.

**Subject:** RE: ERR, Delivery & Cost Recovery

Sara,

Does 4:00 work? Also, below is a brief description of the concern.

Thanks,  
Meredith

When we first reviewed the cost recovery caveat, we had only focused on eligibility of the facility. The issuance of the REC decision caused us to take another look at whether delivery is included in the definition of ERR. Given that it is, we are concerned that the caveat creates cost recovery uncertainty if the delivery rules change and under the PPA the buyer or its agent is ultimately responsible for delivering the power to California. Further, we do not believe the caveat is necessary, because rate recovery is already subject to the CPUC's oversight of PG&E's administration of the contract

**From:** Kamins, Sara M. [mailto:sara.kamins@cpuc.ca.gov]

**Sent:** Monday, March 22, 2010 1:53 PM

**To:** Allen, Meredith

**Cc:** Simon, Sean A.

**Subject:** RE: ERR, Delivery & Cost Recovery

Thanks for this. I'm pretty free tomorrow, is there a time that works for you? Also, would you mind sending a sentence or two that I could send to Traci about why the inclusion of delivery in the definition of ERR is a problem given the caveat to the cost recovery finding?

Thanks,

Sara

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Sara Kamins

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**From:** Allen, Meredith [mailto:MEAe@pge.com]

**Sent:** Monday, March 22, 2010 1:13 PM

**To:** Kamins, Sara M.

**Cc:** Simon, Sean A.

**Subject:** ERR, Delivery & Cost Recovery

Sara,

As we discussed, below is the language from the statute that indicates that the definition of ERR does have a delivery component. Given this language and the recent REC decision, we have concerns with the caveat that has been added to the cost recovery finding.

Should we schedule a time to discuss?

Thanks,  
Meredith

An ERR is defined in section 399.12(c) of the Public Utilities Code (complete text is provided below) as an electric generating facility that meets the definition of "in-state renewable electricity generation facility" set forth in section 25741(b) of the Public Resources Code (complete text provided below). Section 25741(b) provides that an "in-state renewable electricity generation facility" is one that, among

other things, is (a) in California; (2) near the border of California with the first point of connection to the transmission network within California and electricity produced by the facility is delivered to an in-state location; or (3) has its first point of interconnection to the transmission network outside of California and electricity produced by the facility is delivered to an in-state location.

Section 25741(a) of the Public Resources Code defines “delivered” as follows:

- (a) "Delivered" and "delivery" mean the electricity output of an in-state renewable electricity generation facility that is used to serve end-use retail customers located within the state. Subject to verification by the accounting system established by the commission pursuant to subdivision (b) of *Section 399.13 of the Public Utilities Code*, electricity shall be deemed delivered if it is either generated at a location within the state, or is scheduled for consumption by California end-use retail customers. Subject to criteria adopted by the commission, electricity generated by an eligible renewable energy resource may be considered "delivered" regardless of whether the electricity is generated at a different time from consumption by a California end-use customer.

**Complete Text of Above-Referenced Code Provisions:**

**Public Utilities Code Section 399.12(c)**

(c) "Eligible renewable energy resource" means an electric generating facility that meets the definition of "in-state renewable electricity generation facility" in *Section 25741 of the Public Resources Code*, subject to the following limitations:

**(1)**

(A) An existing small hydroelectric generation facility of 30 megawatts or less shall be eligible only if a retail seller or local publicly owned electric utility owned or procured the electricity from the facility as of December 31, 2005. A new hydroelectric facility is not an eligible renewable energy resource if it will cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(B) Notwithstanding subparagraph (A), a conduit hydroelectric facility of 30 megawatts or less that commenced operation before January 1, 2006, is an eligible renewable energy resource. A conduit hydroelectric facility of 30 megawatts or less that commences operation after December 31, 2005, is an eligible renewable energy resource so long as it does not cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(2) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996.

**Public Resources Code Section 25741(b)**

(b) "In-state renewable electricity generation facility" means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility satisfies one of the following requirements:

(A) The facility is located in the state or near the border of the state with the first point of connection to the

transmission network within this state and electricity produced by the facility is delivered to an in-state location.

**(B)** The facility has its first point of interconnection to the transmission network outside the state and satisfies all of the following requirements:

**(i)** It is connected to the transmission network within the Western Electricity Coordinating Council (WECC) service territory.

**(ii)** It commences initial commercial operation after January 1, 2005.

**(iii)** Electricity produced by the facility is delivered to an in-state location.

**(iv)** It will not cause or contribute to any violation of a California environmental quality standard or requirement.

**(v)** If the facility is outside of the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.

**(vi)** It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the Energy Commission pursuant to subdivision (b) of *Section 399.13 of the Public Utilities Code*.

**(C)** The facility meets the requirements of clauses (i), (iii), (iv), (v), and (vi) in subparagraph (B), but does not meet the requirements of clause (ii) because it commences initial operation prior to January 1, 2005, if the facility satisfies either of the following requirements:

**(i)** The electricity is from incremental generation resulting from expansion or repowering of the facility.

**(ii)** The facility has been part of the existing baseline of eligible renewable energy resources of a retail seller established pursuant to paragraph (2) of subdivision (b) of *Section 399.15 of the Public Utilities Code* or has been part of the existing baseline of eligible renewable energy resources of a local publicly owned electric utility established pursuant to *Section 387 of the Public Utilities Code*.

**(3)** For the purposes of this subdivision, "solid waste conversion" means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

**(A)** The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

**(B)** The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in *Section 38505 of the Health and Safety Code*.

**(C)** The technology produces no discharges to surface or groundwaters of the state.

**(D)** The technology produces no hazardous wastes.

**(E)** To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

**(F)** The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.

**(G)** The technology meets any other conditions established by the commission.

**(H)** The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this paragraph, "local agency" means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.