

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to  
Continue Implementation and  
Administration of California Renewables  
Portfolio Standard Program.

Rulemaking R.11-05-005

**REPLY COMMENTS OF THE GREEN POWER INSTITUTE  
ON THE ALJ'S RULING REQUESTING SUPPLEMENTAL  
COMMENTS ON REPORTING AND COMPLIANCE**

February 21, 2012

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**REPLY COMMENTS OF THE GREEN POWER INSTITUTE  
ON THE ALJ'S RULING REQUESTING SUPPLEMENTAL  
COMMENTS ON REPORTING AND COMPLIANCE**

Pursuant to the February 1, 2012, *Administrative Law Judge's Ruling Requesting Supplemental Comments on Reporting and Compliance Requirements for the Renewables Portfolio Standard Program*, in Proceeding R-11-05-005, the **Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program**, the Green Power Institute, a program of the Pacific Institute for Studies in Development, Environment, and Security (GPI), provides these *Reply Comments of the Green Power Institute on the ALJ's Ruling Requesting Supplemental Comments on Reporting and Compliance*.

**Reporting Date**

In their February 10, 2012, *Comments*, all three IOUs propose a reporting date of August 1 for their annual compliance reports. The common rationale used is that such a late date is necessitated by the timing of the WREGIS process, and the need to provide final data in the reports. In fact, there is no requirement that the annual compliance reports provide finalized data on the previous year. In fact, as demonstrated by reporting in prior years, quite accurate preliminary data, which can be based on the utility's purchase information, can be provided as early as March 1, and truly final data is not always available, even by the utility-proposed August 1 reporting date of the following year. We expect the reporting format to be similar to that used in the first phase of the RPS program, in the sense that it will include prior-year data going back to program inception. Prior-year data should certainly be updated in each annual report as new data become available, as has been done in the past

In addition to the compliance report's presentation of information on prior-year procurement performance, the annual report will also have to present the utility's plan on how it will meet its RPS procurement obligations through the course of the current compliance period, and future compliance periods, at least through 2020. SDG&E refers to these components as a progress report, a project-development status report, and a transmission and distribution upgrade report. In our *Comments*, we referred to them as the compliance report and the progress report. In any case, the reporting on plans for future compliance are simply "snapshots in time," and so are not sensitive to the annual report due date. This means that the needs for reporting on previous-year data becomes the driving force in determining when to make the annual compliance reports due.

In our *Opening Comments*, the GPI proposed a due date for the annual compliance reports of May 1. We argued that that is a date that properly balances the utilities' need to provide accuracy, with the public's need to have timely access to information on utility RPS-procurement performance. We continue to believe that this is the best reporting date to impose. The prior-year procurement data in the compliance report do not need to be finalized, nor do they need to be entirely WREGIS-based. In fact, in July the utilities have to report WREGIS-based procurement data to the CEC, who is the ultimate arbiter of whether they have met their procurement obligations. These data will provide a useful follow-up to the data that are provided on May first (by our proposal) to this Commission in the annual compliance report.

### **RPS Obligations that have been Imposed on the Utilities**

Supplemental question no. 6 asks, in essence, whether RPS compliance can be achieved on the basis of whether a retail seller simply meets its overall procurement requirement for a given compliance period, or whether it must also meet its category requirements for the compliance period in order to be considered fully compliant. All three IOUs argue that they should be judged compliant on the basis of meeting their overall RPS-procurement obligation alone for a given compliance period. This is simply not correct. The category-based procurement obligations, like the overall procurement obligations, are based on

statutory language in SB 2 (1X), and failure to enforce them would negate them. There can certainly be different levels of enforcement for different types of compliance shortfalls, but being deemed compliant requires compliance with all procurement obligations during a given compliance period.

### **Earmarking**

In their February 10, 2012, *Comments*, all three utilities not only argue that earmarking has been rendered moot by SB 2 (1X), but imply that this is already a settled issue. This is not the case at all. Many issues regarding the closing-out of the first phase of the RPS program (pre-2011), and transitioning to the current phase (2011-2020), remain unresolved, including the issue of earmarking. We respectfully disagree with the utilities on the issue of earmarking, and on many related issues regarding RPS phase 1. These matters have previously received comments and reply comments in this proceeding, and are currently under litigation. We encourage the Commission to maintain an open mind and resolve the issues quickly.

Dated February 21, 2012

Respectfully Submitted,



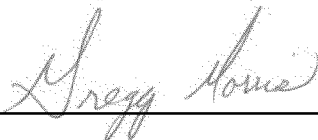
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VERIFICATION

I, Gregory Morris, am Director of the Green Power Institute, and a Research Affiliate of the Pacific Institute for Studies in Development, Environment, and Security. I am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing copy of *Reply Comments of the Green Power Institute on the ALJ's Ruling Requesting Supplemental Comments on Reporting and Compliance*, filed in R.11-05-005, are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

Executed on February 21, 2012, at Berkeley, California.



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Gregory Morris