

**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

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

February 13, 2012

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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*, and the granting of an extension to file until February 13, 2012, by ALJ Simon, in an email to GPI Director Gregg Morris dated February 10, 2012, 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 *Comments of the Green Power Institute on the ALJ's Ruling Requesting Supplemental Comments on Reporting and Compliance*.

1. When should the annual RPS compliance report be submitted? What information should the annual RPS compliance report contain?

In the previous phase of the RPS program (2003 – 2010), biannual compliance reporting was required, with reports due on March 1 and August 1 of each year. The March report presented data on procurement during the previous year, while the August report presented projections of procurement for the current year and future years, as well as updated data on the previous year.

The statutes governing the new phase (2011 – 2020) of the California RPS program specify that compliance reporting should be done annually. In November 17, 2011, *Comments* in this proceeding, PG&E proposed making the single annual report due on August 1 of each year, the same date as the second report of the year in the previous phase of the RPS program. In our November 22, 2011 *Reply Comments*, we proposed that a May 1 annual

reporting requirement would balance the IOUs' desire to have time to ensure accuracy in reporting, with the every other party's need for basic information about the ongoing procurement performance of the IOUs. We continue to believe that a May 1 annual reporting date should be adopted by the Commission for the compliance report conforming to §399.13(a)(3). We propose this date with the understanding that all of the functions of the previously twice-yearly reports, including reporting on past procurement performance and providing projections of future procurement, will be included in the new, now once-annual compliance report.

California Public Utilities Code §399.13(a)(3) specifies that the annual compliance reports should cover, at a minimum, several topical areas, including the reporting entity's previous-year procurement performance in the RPS program by product category, the status of the entity's portfolio of contracts and future procurement prospects, the entity's progress in adapting its transmission and distribution systems to accommodate increasing amounts of renewables, and recommendations for the elimination of impediments to future progress in meeting its RPS obligations. In effect, this combines the information that was previously reported twice annually in the retail seller's compliance reports – actual procurement information for previous years, and projected procurement information for coming years.

It is our strong hope that the new reporting spreadsheet template that is developed for the annual compliance reports maintains both the historical and forward-looking perspectives of the previous template, and integrates the years in phase one of the RPS program with the current phase two of the program. We believe that the Commission should develop a basic reporting template that is simpler than the previous version, and provides a one-page readable summary for each IOU, as well as, if needed, a more complex template that fully accommodates all applicable program rules. It continues to be our recommendation that a workshop be held to aid in the development of the new reporting spreadsheet for the current phase of the RPS program (2011 – 2020).

2. In addition to the annual RPS compliance reporting requirement, should the Commission require an RPS progress report from retail sellers during the same calendar year?

Based on our understanding of what the question is asking, the compliance report is focused on providing actual historical procurement data, much like the March 1 report in the phase 1 RPS program, while the progress report is focused on providing information about likely future procurement prospects, much like the August 1 report in phase 1. In our opinion, combining the two into a single report provides the opportunity to produce a comprehensive view of the past, present, and future of renewable energy use in California, as well as meeting the new statutory requirements (§399.13(a)(3)).

We have proposed a May 1 annual reporting requirement for the statutorily-mandated IOU compliance reports (see answer to supplemental question no. 1 above). We made that proposal in expectation of there being a single annual report that combined what were previously provided in two yearly reports, and what are referred to in this question as a compliance report and a progress report. Should the Commission decide to require separate compliance and progress reports, we would then request that the reporting dates in the previous phase of the RPS program be maintained, March 1 for the compliance report, and August 1 for the progress report. If the reports are combined, May 1 is a reasonable reporting date for the single annual report.

3. In addition to the annual RPS compliance reporting requirement, should the Commission require a separate report on compliance for an entire compliance period?

In the opinion of the GPI, the annual compliance report should present all of the required information on both an annual basis, and a current-compliance-period-to-date basis. In this way, the annual compliance report for the final year of each compliance period (e.g. reports due in May 2014, 2017, and 2021) will serve as the compliance-period report for each compliance period, as well as the annual report for the final year of the compliance period. We believe that this is both a more efficient use of the utilities' reporting resources, and it ensures a compliance-period focus in the annual reporting format.

4. How should the percentage requirements for procurement categories meeting the specified criteria be applied?

The compliance regime for the current (2011 – 2020) phase of the RPS program is based on three multiyear-compliance periods. That being the case, we believe that the minimum and maximum category percentage requirements should be reported on an annual basis, but applied on a compliance-period basis.

5. Should the Commission require a particular format or time at which a retail seller may apply to the Commission for a reduction of a procurement content requirement?

No answer.

6. How should the relationship between the minimum percentage requirement for procurement and the procurement quantity requirements for a compliance period be interpreted?

This question presents an example for discussion in which a retail seller meets its overall procurement target (20 percent) for the first compliance period (2011 – 2013), but fails to meet the requirement that 50 percent of that procurement must be from product category one. A simple application of the statute as written suggests that this retail seller has not complied with all of its program obligations, and should be subject to appropriate sanctions.

7. How, if at all, should the prohibition on unbundling RECs from earmarked contracts now be applied to contracts for RPS procurement?

For contracts that were executed prior to January 1, 2011, and that were earmarked to provide countable energy for compliance years prior to 2011, the rules on earmarking and unbundling should remain unchanged from what they were when the contracts were executed. Once earmarking obligations end, the contracts should be treated the same as any other RPS contract for bundled energy and RECs in the new (post-2010) RPS program.

8. Additional Remark

The *Ruling* invites parties to include additional remarks if they are relevant to the overall context of these *Comments*. The GPI would like to propose that in adopting a revised reporting system for the current phase of the RPS program, the Commission include in the new system a regular request for comments from interested parties on the annual compliance reports. The GPI has been commenting annually on these reports for the past several years via the mechanism of petitioning for permission to file comments. We believe that the information in these compliance reports is sufficiently important and compelling that a more formal and regular request-for-comment mechanism should be instituted for the future.

Dated February 13, 2012

Respectfully Submitted,

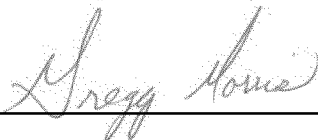


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VERIFICATION

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 *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 13, 2012, at Berkeley, California.



Gregory Morris