

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 28, 2012

Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

RE: Approval Process for Pro Forma Power Purchase Agreements ("PPAs")
Approved in D.10-12-035 as Part of the Qualifying Facility and Combined Heat
and Power Program Settlement Agreement ("Settlement")

Dear Staff of the Energy Division:

The purpose of this letter is to provide direction on implementing Section 4.10 of the Settlement consistently with the intention of the parties to the Settlement.

The Commission approved the Settlement and thereby approved and adopted without modification the Pro Forma PPAs attached to the Settlement. (D.10-12-035, Ordering Para. No. 2.) Section 4.10 of the Settlement set forth the approval process for the Pro Forma PPAs.

The language in Section 4.10 of the Settlement is confusing and incomplete, in that it does not affirmatively account for all possible permutations of the Pro Forma PPAs attached to the Settlement (e.g., Amendment to Legacy PPA, Transition PPA, Request for Offer PPA, PURPA \leq 20 MW PPA, Optional As-Available PPA; existing, new, or repowering facilities; with or without price terms pre-approved by the Commission; with or without material modifications; and terms of less than five years or five years or more). Moreover, Section 4.10 might be open to an interpretation that does not reflect the intention of the Settlement parties. The need for clarification and direction to Energy Division has thus become apparent.

The Commission's Legal Division has spoken to representatives of each of the parties to the Settlement Agreement and confirmed that the parties intended that the PURPA \leq 20 MW and As-Available Pro Forma PPAs of five years or longer that are executed without material modification do not need to be submitted for Commission approval by Advice Letter. The IOUs can simply execute the PURPA \leq 20 MW and As-Available Pro Forma PPAs that do not contain material modifications without the need for a resolution approval because these Pro Forma PPAs were approved and adopted without modification, and because the energy and capacity prices for these PPAs are already established by the Settlement. Submission by Advice Letter is required, however, for any Pro Forma PPA with material modifications or for any PPA for which the pricing terms are not already established by the Settlement, such as RFO PPAs or bilaterally negotiated PPAs.

The following chart illustrates the approval process for the Pro Forma PPAs:

CHP RFO Pro Forma PPAs

	Existing Facility	New Facility	Repowering Facility
With Material Modification	Tier 3 Advice Letter	Tier 3	Tier 3
Without Material Modification	Tier 2 Advice Letter	Tier 3	Tier 3

PURPA \leq 20 MW and As-Available Contracts

	Existing Facility	New Facility	Repowering Facility
With Material Modification	Tier 3 Advice Letter	Tier 3	Tier 3
Without Material Modification	No Advice Letter required	No Advice Letter required	No Advice Letter required

Any questions concerning the implementation of Section 4.10 of the Settlement should be directed to the Commission's Legal Division.

Sincerely,



Paul Clanon
Executive Director

cc: Parties in A.08-11-001, R.06-02-013, R.04-04-003, R.04-04-025, and R.99-11-022
CPUC Legal Division – Frank Lindh, Arocles Aguilar, Joel Perlstein, Christine Hammond