

**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 11-05-005
(Filed May 5, 2011)

**OPENING COMMENTS OF THE UNION OF CONCERNED SCIENTISTS ON
2013 RENEWABLE ENERGY PROCUREMENT PLANS**

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RENEWABLE ENERGY PROCUREMENT PLANS**

In compliance with the Assigned Commissioner’s *Ruling Identifying Issues and Schedule of Review for the 2013 Renewables Portfolio Standard Procurement Plans Pursuant to Public Utilities Code Section s399.11 Et Seq. and Requesting Comments on a New Proposal*, issued in R.11-05-005 on May 10, 2013 (“May 2013 Ruling”), the Union of Concerned Scientists (“UCS”) respectfully submits these initial comments.

UCS’s comments on the May 2013 Ruling are limited in scope to the 2013 RPS procurement plans submitted by Pacific Gas and Electric Company (“PG&E”), Southern California Edison Company (“SCE”) and San Diego Gas and Electric Company (“SDG&E”).

I. California’s Investor-Owned Utilities are well on their way to meeting RPS requirements and should begin laying the groundwork for increased levels of renewables beyond 33 percent.

UCS commends the investor-owned utilities (“IOUs”) for putting together thorough RPS procurement plans. It is worth noting that all three IOUs characterize their RPS compliance position as good, and have confidence in meeting RPS mandates for at least the first two compliance periods.¹ While there is no statutory obligation for the IOUs to procure renewables sufficient to meet any mandates beyond those required by Senate Bill (“SB”) 2 (1x), UCS believes it is prudent for the IOUs to establish procurement processes and policies that anticipate higher levels of renewable energy investment in years following 2020. Given the success of the RPS program to date, the declining cost of renewable energy technologies and the state’s

¹ SCE, p.7;SDG&E,p.14; PG&E, p.1;

aggressive greenhouse gas emission reduction goals, it is unlikely California's clean energy goals will remain at 33 percent renewables in perpetuity. One example of a way in which the IOUs could begin making investments that would ease their transition to higher levels of renewables in a cost-effective manner is to consider contracts from facilities that may lose access to federal tax credit incentives if they expire in 2016, even if the procurement takes the utility beyond 33 percent renewables. Another approach the IOUs could take is maintaining a bank of excess supply that could serve as a starting point for electricity a retail seller could apply to a higher RPS requirement, similar to what PG&E is proposing to "eliminate the need at this time to intentionally procure long-term contracts above the 33% target by utilizing the bank to manage the year-to-year variability from performing RPS resources."²

II. The Commission should adopt an appropriate minimum margin of procurement for each IOU in order to minimize the risk of noncompliance.

The RPS statute requires the Commission to adopt an "appropriate minimum margin of procurement above the minimum amount of procurement necessary to comply with the RPS to mitigate the risk that renewable energy projects under contract or in development are delayed or canceled."³ The Commission's ruling on August 2, 2012 ("August 2012 Ruling") entering the final renewable net short ("RNS") methodology into the record and directing the use of the RNS methodology in the August 15, 2012 updates to the 2012 RPS procurement plans did not adopt a minimum amount of over-procurement. Instead the Commission allowed the IOUs to rely on their own calculations and incorporate their own definition of an "appropriate" over-procurement margin into their RNS calculations. The August 2012 Ruling also failed to assess the

² PG&E, p.83.

³ Cal. Publ. Util. Code § 399.13(a)(4)(D)

reasonableness of these RNS calculations. The decision to not adopt an appropriate margin of over-procurement at the time was clarified in Decision (“D.”) 12-11-016, the Commission’s decision conditionally accepting the 2012 RPS procurement plans. However, the Commission implied in D.12-11-016 that the issue will be addressed soon: “The Commission will address this statutory provision and the success rates relied upon by the utilities later in this proceeding.”⁴

UCS believes that it is not appropriate for the Commission to continue passing on its obligation to adopt an appropriate margin of over-procurement and allowing the retail sellers to incorporate some or no amount of over-procurement (in PG&E’s case) into their 2013 RPS procurement plans. UCS believes it is important for the Commission to establish an appropriate margin of over-procurement now, before the Commission becomes enmeshed in an RPS noncompliance proceeding. In the event that a retail seller fails to meet an RPS requirement, the Commission is required to determine whether a retail seller’s failure to comply was due to a condition beyond the retail seller’s control. In its determination, the Commission is required to consider whether the retail seller “procured an appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to compensate for foreseeable delays or insufficient supply.”⁵ UCS believes that it will be much more straightforward, and save time and money for both Commission and IOU staff, to establish a standard upfront rather than peel back the onion and try to uncover, years later, whether a utility’s calculation of “reasonable” over-procurement was in fact reasonable at that time. SCE urges the Commission to “rely on the IOUs to calculate the minimum margin of [over] procurement and should not attempt to impose a one-size-fits-all approach.”⁶ While UCS agrees that it would not make sense for the Commission to impose a specific megawatt quantity

⁴ D.12-11-016, p.9.

⁵ Cal. Pub. Util. Code § 399.15(a)(5)(B)(iii).

⁶ SCE, p.25.

of over-procurement on each IOU, establishing a relative margin of over-procurement that directly corresponds to the amount of electricity each utility predicts is likely to not materialize is a reasonable approach tailored to each IOU's risk profile.

The purpose of a minimum margin of over-procurement is clearly explained in the statute: "to mitigate the risk that renewable energy projects under contract or in development are delayed or canceled."⁷ Retail sellers are specifically required to over-procure to compensate for foreseeable delays or insufficient supply."⁸ All three IOUs spend considerable time in their RPS procurement plans documenting the development risks they foresee that could stand in the way of successful RPS compliance. While project failure rates have generally declined and each IOU has adjusted their projections accordingly, it's clear that the project development environment is not risk free. Since a margin of over-procurement is intended to compensate for "foreseeable delays," it seems reasonable for the Commission to establish a margin based upon each IOU's analysis of its risk of project delay or failure.

Section 4 of PG&E's 2013 RPS procurement plan, "Potential Compliance Delays" goes into considerable detail regarding the factors that could "ultimately delay PG&E's ability to meet California's RPS goals."⁹ Contradicting this message, PG&E also assume zero risk of project failure for their "executed-but-not-operational" projects.¹⁰ Although PG&E explains that this prediction for flawless project performance reflects the removal of several projects whose contracts were terminated, it includes this caveat: "This success rate is simply a 'snapshot' in

⁷ Cal. Publ. Util. Code § 399.13(a)(4)(D)

⁸ Cal. Pub. Util. Code § 399.15(a)(5)(B)(iii).

⁹ PG&E, p.43.

¹⁰ PG&E, p.94.

time and is highly dependent on the nature of PG&E's portfolio and the generation conditions in the renewable energy industry."¹¹

Given the project development uncertainties described in PG&E's 2013 RPS procurement plan and the caveat associated with their 100% project success rate, UCS does not believe that PG&E can reasonably suggest they have no need to over-procure to address project delay risks. If the Commission does not set a standard for what should be considered an appropriate margin of over-procurement, as required in section 399.13(a)(4)(D) of the Public Utilities Code, the Commission will send a signal for the IOUs to underestimate their need to plan for foreseeable project delays and failures.

In addition, PG&E views its bank of surplus procurement as an adequate margin of voluntary procurement to "mitigate risks associated with short-term variability in load," "protect against project failure or delay exceeding forecasts" and "eliminate the need at this time to intentionally procure long-term contracts above the 33% target by utilizing the bank to manage the year-to-year variability from performing RPS resources."¹² UCS supports using a procurement bank for these purposes and not as a substitute for a margin of over-procurement.

III. The Commission should work with stakeholders to develop a method for appropriately valuing existing projects with expiring contracts.

In general, UCS believes the IOUs should encourage the generators with contracts set to expire close to the 2020 date to submit new offers for long-term contracts as soon as possible. New long-term contracts should help ensure these projects remain viable over the course of their lifetime. While UCS encourages these generators to submit new bids that are price-competitive,

¹¹ PG&E, p.95.

¹² PG&E, p.83.

it believes the IOUs must also appropriately consider the “bird in the hand” values of an existing project through the least-cost best-fit process. These projects have already gone through the permitting and citing processes and secured initial development capital – all factors that the IOUs identify as variables that could impact compliance with RPS mandates. Particularly some of the existing wind projects whose contracts will expire before 2020 may be located in highly productive resource areas. These existing projects have already impacted the land on which they are located, as opposed to projects that are planning construction on previously undeveloped land. As we all know, the environmental impact of building a new utility-scale renewable energy project is never zero. While contract bid prices should always be a strong factor in an IOU’s ultimate choice of which projects they execute contracts with, the Commission should ensure the least-cost best-fit process appropriately values the benefits associated with existing projects.

UCS thanks the Commission for this opportunity to submit comments.

Respectfully submitted,



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VERIFICATION

I, Laura Wisland, am a representative of the Union of Concerned Scientists and am authorized to make this verification on the organization's behalf. The statements in the foregoing document are true to the best of my knowledge, except for those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 12, 2013 in Berkeley, California.

A handwritten signature in cursive script that reads "Laura Wisland". The signature is written in black ink and is positioned above a horizontal line.

Laura Wisland