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)

COMMENTS OF THE CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES ON IOU 2013 RPS PLANS AND ACR NEW PROPOSAL

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In response to the Assigned Commissioner's Ruling Identifying Issues and Schedule of Review for 2013 Renewables Portfolio Standard (RPS) Procurement Plans Pursuant to Public Utilities (PU) Code Section 399.11 Et Seq. and Requesting Comments on a New Proposal issued on May 10, 2013 (May 10 ACR), the Center for Energy Efficiency and Renewable Technologies (CEERT) respectfully submits these Comments on the Investor-Owned Utilities' (IOUs') 2013 RPS Procurement Plans and the New Proposal. These Comments are timely filed and served pursuant to the Commission's Rules of Practice and Procedure, the May 10 ACR, and the Administrative Law Judge's (ALJ's) Ruling sent by electronic mail to the service list on May 23, 2013, extending the due date for these Comments to July 12, 2013.

I. INTRODUCTION

In CEERT's Comments on the IOUs' *2012* RPS Plans, CEERT identified "widespread differences" in how the IOUs were "interpreting" or "applying" 33% RPS statutory requirements (Senate Bill (SB) 2 1X).[1] CEERT concluded that such conflicts "undermine needed certainty in the RPS procurement process."[2]

[1] R11-05-005 (RPS) CEERT Comments on 2012 RPS Plans and New Proposals (June 22, 2012), at p. 1; SB 2 (Stats 2011, Ch. 1), adding or amending portions of the RPS Program (Public Utilities (PU) Code §399.11, et seq.)
[2] Id.

Decision (D.) 12-11-016 on the IOUs' 2012 RPS Plans and the May 10 ACR do provide more direction on certain aspects of this annual process. However, neither effectively or appropriately recognizes the policy mandates adopted by the Commission in its Long Term Procurement Plan (LTPP) rulemakings, notably Decision (D.) 12-01-033 and, most recently, D.13-02-015, requiring renewable generation to be procured on an ongoing basis as a preferred resource in the Loading Order to meet all energy needs, unlimited by any "targets" set on that procurement in another proceeding.[3] Further, both fail to acknowledge that even the 33% RPS does *not* set a "ceiling" on renewable generation procurement. Governor Brown's "signing statement" for that legislation (Senate Bill (SB) 1X 2) bears repeating again:

> "While reaching a 33% renewables portfolio standard will be an important milestone, it is ***really just a starting point - a floor, not a ceiling***. Our state has enormous renewable resource potential. I would like to see us pursue even more far-reaching targets. With the amount of renewable resources coming on-line, and prices dropping, I think 40%, at reasonable cost, is well within our grasp in the near future."[4]

In addition, there remain key decisions that have yet to be made by the Commission or even directions by the May 10 ACR that continue to allow for too much discretion and uncertainty in renewable generation procurement. These include the absence of decisions on "procurement expenditure limitations" and "least cost best fit" (LCBF) reform and directives permitting the IOUs' individual perspectives on "lessons learned," "trends," or "success rates" to assess need or dictate the terms of bid solicitations or evaluation. Thus, the IOUs (Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&E)) have responded to the May 10 ACR by using their *opinions* on "lessons learned" and "trends" in the renewable market to shape "preferences" or

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[3] D.12-01-033, at p. 20.

[4] Governor's Signing Statement for SB 1X 2 (4/12/11) (http://gov.ca.gov/docs/SBX1_0002_Signing_Message.pdf); emphasis added.

adopt changes in their bid criteria. CEERT believes that the Commission must take steps to avoid subjectivity serving to define such critical aspects of renewables procurement, especially if it creates more barriers for, or undermines the value of, procurement from a diverse mix of renewable resource types and technologies.

CEERT, however, does agree with all three IOUs that cite to "regulatory" changes or delays in implementation that can also foster uncertainty and further burden this procurement. Each of the IOUs has underscored the significant barrier, in terms of infrastructure, costs, and risks, to renewable development and deliveries that continues to be represented by constraints in transmission access. That concern has only been exacerbated with the Commission's issuance of D.13-07-018, imposing great risks, costs, and delay on generators reliant on the Tehachapi Renewable Transmission Project (TRTP), as discussed further below. Further, inaction by the Commission on specific RPS implementation or evaluation (LCBF reform) issues inevitably lead to discretionary actions by the IOUs to "fill the void" or undermine the transparency of "cost" data that may be used to limit renewables procurement.

All of these policy and programmatic considerations inform CEERT's specific comments herein. CEERT, in particular, urges the Commission to ensure that any decision on the IOUs' 2013 RPS Plans recognizes the important role renewable generation procurement is to play, not just to satisfy a "compliance" target, but to meet this State's energy needs going forward consistent with all applicable policy mandates.

II.
IOU 2013 RPS PLANS

CEERT offers its comments on specific proposals made by the IOUs in their 2013 RPS Plans below consistent with its overall perspective identified in Section I. These comments are

not exhaustive, and CEERT reserves the right to address these and other issues further in its reply comments.

A. Assessments of RPS Portfolio Supplies and Demand, Compliance Delays, and Risk (May 10 ACR Sections 6.1, 6.3, and 6.4)

The "need" assessments contained in the IOUs' 2013 RPS Plans are dominated by each utility's calculation of their "probability weighted procurement need or Renewable Net Short ('RNS')."[5] This analysis, however, also includes assessments of renewable generation "development" progress, compliance delays, and portfolio risk factors.[6]

Several aspects of the IOUs' "need" assessment are of immediate concern to CEERT. First, the Commission must confirm that procurement of renewable generation, as dictated by the Loading Order, is required to meet *a variety* of needs in addition to and beyond RPS compliance. Second, the wide swings in the IOUs' forecasted "success" rates for approved projects that have not yet begun delivering energy require further analytic support. Third, the 2013 RPS Plans must now assess the impact of D.13-07-018, which authorizes a costly delay in the construction of a key segment (Segment 8A) of the Tehachapi Renewable Generation Project (TRTP), on the already significant barrier of interconnection facilities that "are crucial to the successful implementation" of the IOUs' renewable portfolios.[7]

1. Renewable Generation Is the Preferred Generation Resource to Meet All Energy Needs

The May 10 ACR does require the need assessment in each IOU's 2013 RPS Plan to "also identify and incorporate impacts of overall energy portfolio requirements (not just RPS portfolio requirements), recent legislation, other Commission proceedings (e.g. Long-Term Procurement Plans Proceeding), other agencies [sic] requirements, and other policies or issues

[5] SDG&E 2013 RPS Plan, at pp. 4-5.
[6] See, e.g., SDG&E 2013 RPS Plan, at pp. 6-16; SCE 2013 RPS Plan, at pp. 1-20.
[7] SDG&E 2013 RPS Plan, at p. 18.

that would impact RPS demand and procurement."[8] CEERT believes that this "direction" takes on new significance given that the Commission has *now required* and confirmed, irrespective of any RPS "targets," that, pursuant to the Commission's Loading Order of preferred resources, renewable generation is to be considered and procured first as a generation resource in meeting all energy needs.

Thus, the Commission in D.12-01-033 determined that a utility's "obligation" to meet energy needs pursuant to the Commission's Loading Order of preferred resources is *not* "finite," but "ongoing," mandatory, and *unlimited* by any targets otherwise set for those resources, which include renewable generation. [9] Specific "to the *procurement of renewable power*," D.12-01-033 confirms that "the utility is under a *continuing obligation* to maximize its procurement of cost-effective renewable generation, *even if it has hit the target set by this Commission in another proceeding*."[10]

Even more recently, in the Commission's seminal D.13-02-015 authorizing "long-term procurement for local capacity requirements" (LCRs), the Commission made the groundbreaking finding that "preferred resources" are not only to be accounted for in reducing LCR or LTPP needs, but in *meeting* them as well. Thus, the Commission directed SCE to meet a portion of its LCR by procuring capacity "through preferred resources consistent with the Loading Order in the Energy Action Plan."[11] Further, SCE's "solicitation process to procure authorized LCR resources" must be "consistent" with the Energy Action Plan, "which places cost-effective energy efficiency and demand response resources first in the Loading Order, followed by

[8] May 10 ACR, at p. 10.
[9] D.12-01-033, at pp. 17 - 20.
[10] D.12-01-033, at p. 20; emphasis added.
[11] D.13-02-015, at p. 2.

renewable resources," and a "significant aspect" of the review of resulting contracts "will be to ensure consistency with the Loading Order."[12]

The May 10 ACR, by not expressly incorporating these important policy directives, has yielded varying responses from the IOUs on the significance of the Loading Order or these decisions to its RPS procurement. On the one hand, SCE and SDG&E do seem to understand the requirement to rely on renewable generation in meeting their energy needs beyond compliance with RPS targets. Thus, SDG&E states that it "will make its best efforts to follow" the Loading Order, which "may include the purchase of renewable energy" to meet its LCR needs, and SCE, first noting that it "procures renewable energy in compliance with the preferred loading order," then states with specific reference to D.13-02-015:

> "D.13-02-015 requires SCE to procure minimum amounts of gas-fired generation, preferred resources, and energy storage in the Western LA Basin sub-area. As SCE will explain in its LCR Procurement Plan, which will be submitted to Energy Division in response to D.13-02-015 on July 15, 2013, in the fourth quarter of 2013, SCE intends to conduct an LCR solicitation that is open to all technologies that can meet SCE's LCR needs. This LCR solicitation will be open to renewable resources."[13]

SCE also concludes: "To the extent SCE receives proposals for projects in those areas that are not selected in SCE's RPS solicitation based on LCBF selection criteria, SCE will consider the LCR value of these proposals using the LCR solicitation valuation methodology."[14]

Disappointingly, PG&E *never references* the Loading Order or its "ongoing obligation" to procure renewables beyond RPS targets consistent with Commission D.12-01-033 and D.13-02-015.[15] In terms of other "needs," PG&E only states that there will be a need for "new flexible capacity" to integrate renewable generation, without identifying the role that renewables,

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[12] D.13-02-015, at p. 3.
[13] SCE 2013 RPS Plan, at pp. 10, 22 (n. 21), 32.
[14] SCE 2013 RPS Plan, at p. 32.
[15] PG&E's sole reference to the Loading Order relates to the process governing utility owned generation (UOG). (PG&E 2013 RPS Plan, at p. 22.)

especially facilitated by demand response or storage technologies, may play in meeting that need.[16]

For this reason, CEERT strongly recommends that the Commission make clear in any decision on the IOUs' 2013 RPS Plans that (1) there is *no* ceiling on RPS or renewable generation procurement and (2) notwithstanding any RPS target, renewable generation is to be procured to meet all energy needs consistent with and pursuant to the Loading Order. Thus, to the extent that SCE, as an example, procures renewable generation to meet its LCR needs, such procurement should *not* be limited in any way by the existence or application of RPS targets, SCE's RNS, or its RPS "position" by compliance period. The Commission should and must use the opportunity of its next decision on the 2013 RPS Procurement Plans to clearly state this mandate and its application to each IOU. The Commission's LTPP decisions make clear that renewables procurement is not just a matter of "percentages," but remains the *first-choice generation resource option* to continue to reduce reliance on fossil generation and achieve greenhouse gas (GHG) emission reductions also mandated by state law (AB 32).[17]

2. "Success Rates" Should be Publicly Vetted.

One of the factors that significantly impact each IOU's RNS is the IOU's assessment of the development progress of "approved projects that have not yet begun delivering" or, in other words, the "success rate" of such projects.[18] While certain of the IOUs note improved "trends" in projects with signed power purchase agreements (PPAs) coming online, the 2013 RPS Plans overall show a wide divergence in the "success rate" projections of the IOUs. Thus, SCE projected "success rates" change by project type and compliance period (from a low "flat rate" of 50% to a high of 98%), while SDG&E forecasts a 75% success rate on average, and PG&E

[16] PG&E 2013 RPS Plan, at p. 96.
[17] SB 2 1X does not create an automatic cut-off on renewables procurement at 33%.
[18] SDG&E 2013 RPS Plan, at p. 7.

concludes that such projects will meet with 100% success.[19] These forecasts, however, appear largely to be a product of internal assumptions or "trend" assessments made by the IOUs.

Given the significance of this particular assumption, CEERT renews its call made in its Comments on the IOUs' 2012 RPS Plans for the Commission to make an "assessment of the 'adopted' rates."[20] CEERT continues to believe that the Commission, its staff, and all stakeholders will benefit from a fuller, public vetting of these success rates before the Commission concludes that any such projection is reasonable. As CEERT discusses below, CEERT joins with SCE and PG&E in calling for a public workshop or forum to address "integration costs." That forum, to ensure a timely decision on the 2013 RPS Plans, could also include consideration of "success" rates.

3. The Impact of D.13-07-018 (SCE TRTP) on RPS Compliance Delay and Risks Must be Addressed by the Commission in its Decision on the 2013 RPS Plans.

In their assessments of "compliance delays" and "risks" to their RPS Portfolios, each of the IOUs place particular emphasis on the critical importance to, *and* barriers created by, transmission and interconnection required to successfully and cost-effectively deliver renewable energy to California load centers. In its 2013 RPS Plan, SCE best summarizes the current situation as follows:

> Although the CAISO has identified transmission necessary to meet California's 33% RPS goal,[footnote omitted] *the lack of sufficient transmission infrastructure and the prolonged process for permitting and approval of new transmission lines continues to be the most significant impediment to reaching the State's renewable energy targets*. In its RPS solicitations, SCE has received relatively few proposals from renewable generators that do not require significant transmission upgrades or new transmission development for the renewable energy to be deliverable. Based on the market response in SCE's RPS solicitations and other renewable programs, *lack of adequate transmission infrastructure and the lengthy process of siting, permitting, and building new transmission continues to*

[19] SCE 2013 RPS Plan, at p. 5; SDG&E 2013 RPS Plan, at p. 7; PG&E 2013 RPS Plan, at p. 57.
[20] CEERT Comments on 2012 RPS Plans (6/22/12), at p. 17.

be a real and complicated impediment to bringing new renewable resources on-line."[21]

Contributing to this situation is that fact that "[s]everal of SCE's contracted wind projects in the Tehachapi region in Kern County, California, for example, have been forced to curtail deliveries significantly in order to maintain system reliability in this area."[22]

Disappointingly, the Assigned Commissioner (Commissioner Ferron) to this proceeding completely neglected to consider the impacts on renewable development and delivery in his statements at the Commission Business Meeting of July 11, 2013, when he voted in favor of D.13-07-018. D.13-07-018 authorizes the undergrounding of a critical segment (Segment 8A) of the Tehachapi Renewable Transmission Project (TRTP). But, in doing so, D.13-07-018 *reverses* the Commission's approval *more than three years ago* of the overhead construction of that line in D.09-12-044, on which most work had already been completed, and now serves to further delay and create risks of costly curtailment for renewable generators depending on that line for energy deliveries, while increasing transmission rates by a minimum of a quarter billion dollars.

While the impact of D.13-07-018 on renewable generation and development was not on the Assigned Commissioner's mind when he voted for this decision, it most certainly *must be* considered in assessing RPS compliance delays and risks *in this proceeding*. In this regard, the Commission's decision on the 2013 RPS Plans is the optimal forum for considering how to make generators whole for the high costs of, and risks imposed by, D.13-07-018, especially where *no* conditions or limitations were placed on similar actions being taken in the future. In making that assessment, CEERT asks that the Commission specifically take into account and incorporate in this record the recommendations made by the Independent Energy Producers Association (IEP),

[21] SCE 2013 RPS Plan, at p. 12; emphasis added.
[22] SCE 2013 RPS Plan, at p. 17.

Terra-Gen Power, LLC (Terra-Gen), and CEERT in Application (A.) 07-06-031 (SCE TRTP) on this issue.[23]

In fact, the failure by the Commission to "connect-the-dots" between related decisions impacting renewable development clearly exacerbates already significant impediments to renewable development and creates further regulatory uncertainty and risks to that development being undertaken at all. As Commissioner Florio stated in voting against and dissenting from D.13-07-018, the failure to uphold the originally approved line, on which renewable developers had invested billions in reliance, leads to the inevitable conclusion that California is "a risky place to do business" for renewable generators needed "to meet our climate control goals" and "endangers our whole energy future as it is envisioned in California."[24] CEERT wholeheartedly agrees with Commissioner Florio and asks that Assigned Commissioner Ferron in his stewardship of this proceeding fully consider the impacts on renewable development resulting from, *and remedies required to offset the risks and costs of,* D.13-07-018 in any final decision on the 2013 RPS Plans.

B. Bid Solicitation Protocol, Including Least Cost Best Fit Methodologies (May 10 ACR Section 6.8)

Despite many "promises" to address a Least Cost Best Fit (LCBF) methodology, which has remained largely unchanged since it was first adopted in *2004*,[25] the Commission has taken *no* meaningful steps in that direction. Instead, the Commission, as recently as the end of 2012, has simply continued to defer action on "reform of LCBF," on which there have only been

[23] Rule 7.4 of the Commission's Rules of Practice and Procedure permit consolidation of "proceedings involving related questions of law or fact."
[24] CPUC Business Meeting of July 11, 2013.
[25] See, D.04-07-029.

limited opportunities for comment and no public workshop, with only a recent announcement that a "Proposed Decision" on LCBF is now expected in the "Fourth Quarter 2013."[26]

This failure to address LCBF, especially on such critical components as "Time of Delivery" (TOD) rates and consideration of "integration costs" or "curtailment," leaves open these issues to uncertainty and discretionary resolution by the IOUs. Thus, on TOD rates, SDG&E, based on its own subjective "lessons learned," has placed "a limit on the maximum generation allowed during each TOD period."[27] SCE has proposed to "update TOD factors to reflect more recent energy and capacity values" and "changing market conditions,"[28] while PG&E seeks to reduce peak period TOD factors "to reflect the *expectation* that there will be significant volumes of solar generation on-peak, reducing the value of incremental energy and capacity during this period."[29] On an even more discretionary basis, PG&E, with only a reference to reducing overall costs to customers, has modified its 2013 RPS Form PPA "to require unlimited buyer curtailment."[30]

D.12-11-016 made clear that any changes to the methodologies "to derive TOD factors" were to be addressed "in a subsequent part of this proceeding…as part of the review of LCBF."[31] That examination has *not* happened, and *no* action by the Commission today supports the changes to either TOD factors or their use in LCBF evaluation by the utilities. In addition, nothing in any decision by the Commission permits such a one-sided outcome that shifts all curtailment risks and costs to the seller (generator). The Commission must reject these highly discretionary and detrimental changes proposed by the IOUs.

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[26] Second Amending Scoping Memo and ACR (January 9, 2013), at p. 7; see also, D.12-11-016, at pp. 38, 68.
[27] SDG&E 2013 RPS Plan, at p. 38.
[28] SCE 2013 RPS Plan, at p. 46.
[29] PG&E 2013 RPS Plan, at p. 90.
[30] PG&E 2013 RPS Plan, at p. 80.
[31] D.12-11-016, at p. 38.

With respect to "integration costs," in its comments on the 2012 RPS Plans, CEERT did urge that, if integration costs are to be considered in the LCBF, it would require a "'public forum' where all stakeholders can participate in the development of this adder."[32] D.12-11-016 concurred in this regard, finding that "an integration cost adder" could not be included in the IOUs' LCBF methodologies until those methodologies were examined "later in this proceeding" and until such an "adder" was "first…developed" in a public proceeding and "based on system-wide impacts."[33]

While no IOU included an integration cost adder in their 2013 RPS Plans, both PG&E and SCE urge the Commission to move forward with updating the LCBF to consider integration costs.[34] In this regard, CEERT believes that SCE's recommendations as follows offer a pathway forward on this issue:

> "SCE recommends that the Commission set a date for the IOUs to submit integration cost adder proposals for incorporation into their RPS solicitations. These proposals would then be subject to public comment and workshops, if appropriate. This stakeholder process should be completed in time for integration cost adders to be approved for use in the 2013 RPS solicitations."[35]

Regardless of whether this process to "update" the LCBF to "account" for integration costs is completed in time for the 2013 RPS solicitations, CEERT does believe that the IOUs should be allowed to consider the "value" of resources that do *not* incur such integration costs in its evaluating bids and "optimizing" and diversifying their RPS portfolios. Thus, as SCE states:

> "A portfolio wide optimization strategy will need to assess the composition of SCE's renewables portfolio as resources such as geothermal would potentially reduce flexibility requirements, thus creating an indirect integration cost consideration."[36]

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[32] CEERT Comments on 2012 RPS Plans (6/22/12), at pp. 22-23.
[33] D.12-11-016, at pp. 28-29.
[34] SCE 2013 RPS Plan, at p. 35; PG&E 2013 RPS Plan, at pp. 38, 107.
[35] SCE 2013 RPS Plan, at p. 35.
[36] SCE 2013 RPS Plan, at p. 24. See also, PG&E 2013 RPS Plan, at pp. 5-6, 108.

The value of geothermal resources to meet the growing call for "flexibility" for longer term Resource Adequacy (RA) and LCR needs further underscores the merits of this approach.

C. Cost Quantification (May 10 ACR Section 6.12)

Each of the IOUs includes information regarding the "costs" of renewable procurement to meet RPS targets in their 2013 RPS Plans. Much of the key data, however, is redacted and not public available. Further, without Commission action on establishing "procurement expenditure limitations," it is not clear the impact that this cost data has or will have on RPS procurement. For these reasons, CEERT urges the Commission to decide the issue of "procurement expenditure limitations" promptly to avoid any ongoing uncertainty and in manner that will ensure that its resolution will come from the language of the statute (Section 399.15(c)) itself coupled with comments by all stakeholders long since filed on its appropriate implementation.

D. Imperial Valley (May 10 ACR Section 6.14)

In the 2012 RPS Plans, there was either no or little attention paid to the Commission's requirement that each utility must specifically assess how and to what extent their solicitations have resulted in procurement of generation from Imperial Valley renewable resources. In D.12-11-016, the Commission restated this directive and its commitment to continue to monitor the IOUs' procurement activities in the Imperial Valley area and the utilization of the Sunrise Powerlink by those renewable resources.

In the 2013 RPS Plans, each IOU has addressed procurement from Imperial Valley renewable resources, and each has concluded that no further "remedial" measures are required to further that procurement. Unfortunately, the "results" of these "efforts" do not support the IOUs' assertions that nothing more needs to be done to advance procurement of "renewable resources

that are facilitated by Sunrise."[37] Thus, PG&E and SDG&E claim that there was a "robust" "*response*" to its 2012 RPS Solicitations from Imperial Valley resources,[38] but it appears that the only tangible outcome of that response was one *contingent* shortlisted project in Imperial Valley in SDG&E's solicitation.[39] The situation with SCE is worse – since SCE did not hold a 2012 solicitation and "did not did not execute contracts with any projects on its 2011 RPS solicitation short list."[40]

Clearly, this "outreach" to Imperial Valley renewable resources can hardly be called a success. At this point, especially given the high value of geothermal resources to meeting the increased need for *flexible* generation resources, CEERT urges the Commission to reconsider and adopt "remedial measures" that will appropriately value and further procurement of Imperial Valley renewable resources.

III.
NEW ACR PROPOSAL

Over the past year in rulings and workshops in this proceeding, the Commission has offered for comment a variety of "new proposals" aimed at streamlining the RPS procurement process.[41] CEERT asks that the Comments it has already filed on these proposals be considered in any decision to adopt, revise, or reject the "proposals" that have been suggested by the Assigned Commissioner or Energy Division Staff.

As CEERT has stated in response to these proposals, it certainly "understands the merits of the Commission continuing to explore changes to RPS Planning and procurement that could

[37] May 10 ACR, at p. 23.
[38] PG&E 2013 RPS Plan, at p. 112; emphasis added; SDG&E 2013 RPS Plan, at p. 43.
[39] SDG&E 2013 RPS Plan, at p. 43.
[40] SCE 2013 RPS Plan, at p. 33.
[41] See, R.11-05-005 (RPS) ACR issued April 5, 2012; Second ACR issued November 20, 2012.

create efficiencies or improve evaluation."[42] However, from the time the Commission first made such proposals in April 2012 (4-5-12 ACR) to the present, the Commission still has pending the implementation of key provisions of the 33% RPS statute (i.e., RPS expenditure limitation) and needed reform of LCBF criteria. As detailed above, in the absence of addressing these issues fully and publicly, the IOUs have been left to make, and continue to make, discretionary decisions and changes to their plans and bid solicitation and evaluation that are not transparent and adversely affect and create unnecessary uncertainty for renewable development and procurement.

In the 4-5-12 ACR, the Commission first proposed an RPS "two-year procurement authorization."[43] The current May 10 ACR offers the *same* proposal for comment with no differences as to the main features, except to provide more detail on the Year Two "Supplemental RPS Procurement Plan" and *to reduce* the filing requirement of that plan from a Tier 3 Advice Letter filing (requiring a Commission resolution to approve) to a Tier 2 Advice Letter filing (requiring only a letter from the Energy Division to approve), although "recategorization" as a Tier 3 may be possible.[44]

What CEERT said in its comments on the 4-5-12 ACR is, therefore, just as true today of the May 10 ACR "two-year procurement authorization" and is repeated again here:

> "On the surface, CEERT does understand that a two-year procurement authorization sounds desirable as a potential means of creating administrative efficiencies. However, component parts of this proposal – from simultaneous solicitations to use of the informal, but relatively opaque, advice letter process for authorization of the second year – may not be sufficiently open and transparent to support certainty and confidence in the process. Further, RPS solicitations today offer a snapshot (or more) of the current RPS market, as to prices and technologies. As SDG&E has noted, market/transmission risks could result in the need for an IOU to procure additional resources in a year in which it will not

[42] CEERT Comments on 2012 RPS Plans/Proposals, at p. 27.
[43] 4-5-12 ACR, Section 7.6, at pp. 22-23.
[44] 4-5-12 ACR, at pp. 22-23; May 10 ACR, at pp. 25-27.

> hold an RFO and could increase instances of bilateral procurement that, in turn, would be 'benchmarked to outdated solicitation data.'"[45]

In fact, this latter point made by SDG&E was listed by the Commission in D.12-11-016 as a basis for "declin[ing] to adopt this proposal."[46] As stated by the Commission, the proposal "leaves a number of details undeveloped in the absence of annual plans," including "the level of discretion provided to utilities on whether to hold annual solicitations."[47]

Clearly, there is and remains high value of an annual RPS solicitation in terms of providing current data on the renewable generation market and creating greater certainty in terms of regular, competitive opportunities to provide renewable generation. That market certainty and stability can and will play a key role in ensuring sufficient renewable generation not just to meet RPS targets, but to address the growing long-term need for this Loading Order preferred resources to fill local capacity requirements or provide grid "flexibility," especially in combination with demand response resources or storage technologies. The action of allowing "discretionary" second-year RPS solicitations, therefore, will not only adversely affect RPS targets, but will inappropriately constrain reliance on renewable generation as a preferred resource in the Loading Order, for which *no targets or limitations exist*.[48]

Since 2007, CEERT has urged that the Commission effectively integrate renewable generation in LTPP procurement, such as including a renewable "product" among its pre-approved LTPP procurement, this step has still not been taken. [49] This result is particularly disappointing when the RPS statute itself has *long* required that the RPS procurement plan be

[45] CEERT Comments on 4-5-12 ACR, at pp. 29-30, citing SDG&E Public 2012 RPS Plan, at p. 35.
[46] D.12-11-016, at p. 66.
[47] D.12-11-016, at p. 66.
[48] D.12-01-033, at pp. 19-21.
[49] See, e.g., CEERT Comments on Second ACR, at pp. 1-7 (which also details the increasing support for relying on renewables to meet LTPP needs in the current LTTP R.12-03-014).

"proposed, reviewed, and adopted" by the Commission "as part of, and pursuant to, a general procurement plan process" to the extent feasible.[50]

Given these circumstances, the *only* other "solution" is to ensure that RPS solicitations are a regular, *annual* occurrence. Thus, a "two-year authorization" of an RPS Plan should only be adopted *if* annual solicitations continue to be *required* to meet both RPS and LTPP needs. This requirement should also not be dependent on a "motion" filed by a party in "off-years."[51] Such a requirement undermines the Commission's commitment to renewable generation as a Loading Order preferred resources.

Further, CEERT does *not* believe that this proposal "is consistent with the statutory requirement for annual plans."[52] The "Supplemental RPS Procurement Plan" required by the May 10 ACR in the "off-year" of the two-year procurement authorization does *not* satisfy the *Commission's* obligation under Public Utilities (PU) Code §399.13 to require the IOUs' to "annually" prepare renewable energy procurement plans in far greater detail than is proposed for the "Supplemental RPS Procurement Plan."[53] In fact, even with some additional specificity provided for these supplemental plans in the May 10 ACR, these are still not sufficient to overcome the shortcoming of the original 2012 proposal, which the Commission found to "leav[e] a number of details undeveloped in the absence of annual plans."[54]

In addition, the use of a "Tier 2" advice letter process does not guarantee review and approval by the *Commission*, as required by statute, but, instead, permits that review and approval to be conducted by staff. There is nothing in the statutory language of Section 399.13 that permits this delegation of duty by the Commission.

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[50] PU Code §399.13(a)(1).
[51] May 10 ACR, at p. 27.
[52] May 10 ACR, at p. 27.
[53] PU Code §399.13(a)(1), (5).
[54] D.12-11-016, at p. 66.

For these reasons, CEERT continues to object to the two-year procurement authorization as proposed anew by the May 10 ACR. Any mechanism that is used to streamline the "annual" planning and procurement process intended by statute for the RPS Program can only be authorized if it ensures annual RPS solicitations and annual *Commission* review and approval of a plan that meets the requirements of PU Code Section 399.13. CEERT also notes that it will be virtually impossible to effectively address "annual cost limitations,"[55] once established, or meet both RPS goals and LTPP needs without such an annual procurement process.

IV.
CONCLUSION

CEERT appreciates the opportunity to offer its opening comments on IOUs' 2013 RPS Plans and the May 10 ACR's two-year procurement authorization proposal. CEERT looks forward to further consideration of the issues raised herein in reply comments and any public forums held to address these plans and the proposal.

Respectfully submitted,

July 12, 2013

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[55] PU Code §399.15(g)(2).

VERIFICATION

(Rule 1.11)

I am the attorney for the Center for Energy Efficiency and Renewable Technologies (CEERT). Because CEERT is absent from the City and County of San Francisco, California, where I have my office, I make this verification for said party for that reason. The statements in the foregoing Comments of the Center for Energy Efficiency and Renewable Technologies on the IOU 2013 RPS Plans and New ACR Proposal, have been prepared and read by me and 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.

I declare under penalty of perjury that the foregoing is true and correct and executed on July 12, 2013, at San Francisco, California.

Respectfully submitted,

/s/ SARA STECK MYERS

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