

**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 INDEPENDENT ENERGY PRODUCERS
ASSOCIATION ON REVISED STAFF PROPOSAL AND
UPDATED ALTERNATIVE PROPOSALS FOR A
METHODOLOGY TO IMPLEMENT PROCUREMENT
EXPENDITURE LIMITATIONS FOR THE RPS PROGRAM**

INDEPENDENT ENERGY PRODUCERS
ASSOCIATION
Steven Kelly, Policy Director
1215 K Street, Suite 900
Sacramento, CA 95814
Telephone: (916) 448-9499
Facsimile: (916) 448-0182
Email: steven@iepa.com

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: bcragg@goodinmacbride.com

Attorneys for the Independent Energy Producers
Association

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On February 20, 2014, Administrative Law Judge (ALJ) Anne Simon issued a ruling requesting comments on a revised Energy Division (ED) staff proposal for a methodology to implement a procurement expenditure limitation (PEL) for the Renewables Portfolio Standard (RPS) program. In addition, the ruling invited comments on any updated alternative proposals submitted by parties on the methodology to implement a PEL. The Independent Energy Producers Association (IEP) offers the following comments on the revised and updated proposals, and to the extent appropriate answers the questions the ruling posed on the revised staff proposal.

At this point, IEP will focus its comments on the ED's revised PEL Proposal and the Joint Revised Alternate Proposal submitted by Southern California Edison Company, the California Large Energy Consumers Association, the Energy Producers and Users Coalition, and the California Manufacturers and Technology Association (Joint Parties). The California Wind Energy Association (CalWEA) also submitted a revised proposal. However, because the ED's

revised PEL Proposal and the Joint Parties' revised Alternate Proposal are conceptually very different, IEP focuses its comments on the differences between these proposals. IEP may respond to comments on CalWEA's revised proposal in reply comments. In particular, IEP focuses its comments on (a) consistency with the statutory authorization, and (b) adherence to the ALJ's Guiding Principles. Attachment A sets out IEP's responses to some of the questions posed in the ALJ's Ruling in the context of the ED's revised PEL Proposal.

I. CONSISTENCY WITH STATUTORY PROVISIONS

A. Disproportionate Rate Impacts

The Legislature directed the Commission to set a limitation on each electrical corporation's procurement expenditures for all eligible renewable energy resources used to comply with the RPS. In developing the limitation, the Commission was directed to ensure that "[t]he limitation is set at a level that prevents disproportionate rate impacts" on ratepayers.¹

To determine whether a disproportionate rate impact has occurred (or is likely to occur), the ED's Revised PEL Proposal first forecasts the total cost faced by customers in the future (*i.e.*, the total revenue requirement), and then compares the forecast cost of RPS procurement to that forecast total cost. By using a "total cost" approach, the ED's revised proposal measures the impact of RPS procurement in light of all other costs reflected in the rates borne by ratepayers, including the generation rate component, the transmission rate component, the distribution rate component, the public goods charge rate component, and other rate elements.

On the other hand, the Joint Parties' proposal employs a methodology to determine whether a disproportionate rate impact has occurred or is likely to occur based on increases to a single component of the overall rate structure, *i.e.*, the generation component.

¹ Public Utilities Code § 399.15(d)(1). All statutory references are to the California Public Utilities Code.

Essentially, the Joint Parties are proposing a methodology based on an avoided cost principle (without the protections of the Public Utility Regulatory Policies Act, which also uses an avoided cost methodology), *i.e.*, they are proposing a methodology within which the necessity of future, additional renewable procurement is a function of the historical cost of non-renewable procurement over the past three years.

IEP supports the ED's revised PEL approach. If the Legislature had intended for the Commission to adopt an avoided cost approach based solely on the generation component of the overall rate structure, it would have stated that intent. For example, in section 399.15(d)(3), the Legislature explicitly excluded from the consideration of RPS procurement expenditures indirect expenditures such as the cost of transmission upgrades, imbalance energy charges, and the cost of relicensing utility-owned hydroelectric facilities. There is no indication in section 399.15(d)(1) to suggest that only a narrow, single rate component of the overall rate structure should be the basis for setting a renewable expenditure limitation; nor is there any suggestion in the statute that the Legislature intended to prescribe an avoided cost approach to determine whether disproportionate rate impacts are occurring or are likely to occur. Equally important, the Commission and ratepayers will be better able to assess whether or not the RPS program's impacts are disproportionate to its benefits if the cost containment mechanism is premised on the utilities' total revenue requirement instead of a single rate component.

B. De Minimis Rate Impacts

Section 399.15(f) addresses the situation where the utility has not yet met its RPS procurement obligations but has exceeded (or will soon exceed) the procurement expenditure limitation. In this situation, utilities may refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without exceeding a de minimis increase in rates,

consistent with the long-term procurement plan established for the utility pursuant to section 454.5.

The ED's revised PEL methodology recognizes that the standard for determining whether a de minimis increase in rates has occurred should not be a constant factor or formula, because of the dynamic nature of the electric sector and the political and environmental context in which RPS procurement occurs. While consistent with the statutory standard, the ED's revised PEL Proposal allows the Commission to meet the statutory standard in the context of a dynamic, evolving environment.

On the other hand, when faced with the same situation, the Joint Parties' Revised Proposal would have the utility file a "showing" (a) addressing how the utility reached or exceeded its RPS budget; (b) assessing whether or not additional RPS-eligible resources could be procured beyond the pre-determined budget without exceeding the historical cost of conventional generation over the past three years. This approach essentially defines a de minimis rate impact as procurement costs that exceed the cost of the lowest-cost, non-renewable resource option.

From IEP's perspective, the Joint Parties' approach raises a number of concerns. First, using an avoided cost approach to determine whether a de minimis rate impact is occurring is mixing apples and oranges. An avoided cost analysis comparing non-renewable conventional generation with RPS generation based solely on avoided cost could miss or undervalue the environmental and externality benefits of renewable power that the state has continuously recognized as important over the past 30 years. Second, unlike the ED Revised PEL approach that establishes a cost containment budget within which the utilities have flexibility to consider a variety of deals consistent with least-cost/best-fit principles, the Joint Parties' approach established not only a budget limitation but a contract price (\$/kWh) cost ceiling that further

hinders procurement practices necessary to achieve the RPS goal while meeting other statutory obligations. Third, the Joint Parties' approach could entail a delay of 6-12 months in any additional RPS procurement. The Joint Parties' proposal is unclear about the procedures that would be initiated when the utility submits the "showing." However, if past practices are any indication, the ED will be tasked with reviewing the showing and drafting a resolution for the Commission's consideration and eventual action. In the meantime, incremental procurement will go unaddressed. IEP sees a risk that valuable RPS projects may be lost due to this delay.

C. RPS Cost Minimization

The Commission has directed the utilities to procure RPS resources in a competitive manner consistent with Least-Cost/Best-Fit (LCBF) principles to prevent unnecessary rate impacts. Accordingly, the utility typically uses competitive RPS solicitations, supplemented with bilateral transactions, to select resources based on the extent to which resources best meet the utilities' needs at minimum cost. As a result, when this approach is followed, individual power purchase agreements (PPAs) approved by the Commission are the least-cost, best-fit resources available at the time of procurement, *i.e.*, the current approach realizes cost minimization principles when the utilities conduct procurement as prescribed.

The ED's revised PEL proposal tacitly recognizes that the current approach achieves a cost-minimization outcome by relying on existing proceedings and the existing just and reasonable standard, under which the Commission considers the total impact to customers from a cost, environmental, and public policy perspective. Moreover, the ED's approach recognizes that each of the PPAs submitted by the utilities for Commission approval has been subjected to further review by the ED and the utility's Procurement Review Group before being considered by the Commission. The goal of this review is to ensure compliance with the policy

that the utilities should acquire resources that best fit the system's operational needs and the state's policy goals at the minimum cost.

On the other hand, the Joint Parties' proposal imposes yet another level of review of renewable PPAs that have already been found to be the least-cost and best-fit options available. The Joint Parties seek to impose a cost-effectiveness test following application of the LCBF methodology. This additional test is based on avoided cost principles (plus a yet-undetermined \$/kWh "buffer" to reflect environmental attributes).

From IEP's perspective, the Joint Parties' approach replicates the review that already occurs at the Commission, while adding redundancy and delay in decision-making. More importantly, the Joint Parties' approach replaces the Commission's existing discretionary authority with a hard formula. Thus, this proposal places unnecessary and unwarranted constraints on Commission decision-making.

D. The Commission's Role

The Commission exercises a measure of discretionary authority when approving (or rejecting) utility applications to procure or build RPS resources. The Commission exercises this discretion to ensure just and reasonable rates and outcomes, consistent with its statutory obligations. The Commission operates in a dynamic and constantly changing environment. Commission decision-making related to RPS procurement must not be unnecessarily constrained or hamstrung by rigid rules and formulas that seem sensible today but might be out of place tomorrow.

The ED's PEL proposal recognizes the need to provide discretion and flexibility to the Commission in its decision-making role, including when it makes decisions about whether a disproportionate rate increase has occurred (or will soon occur) or whether a de minimis rate increase is likely to result from incremental procurement once an RPS budget is exhausted.

Rather than place rigid constraints on Commission decision-making, the ED's proposed PEL methodology recognizes that the Commission operates in a world in which political, environmental, and economic realities change constantly.

On the other hand, the Joint Parties' revised proposal seeks to impose relatively rigid rules regarding the determination of what constitutes a disproportionate rate increase and what constitutes a de minimis rate impact. As a result, the Joint Parties' revised proposal places additional constraints on Commission decision-making and creates additional barriers to timely decision-making when the Commission considers PPAs that the utility has already identified as the least-cost, best-fit option to meet the RPS goals.

IEP does not support the Joint Parties' approach. Imposing rigid rules on procurement practices in a dynamic environment could result in undue delay that could threaten the state's ability to achieve its RPS, greenhouse gas emissions reduction, and other policy objectives.

II. ADHERENCE TO GUIDING PRINCIPLES

The ALJ Ruling described five Guiding Principles for parties to use when considering the merits of cost containment proposals. In this section, IEP will evaluate the ED's Revised PEL proposal and the Joint Parties' revised Alternate Proposal by applying these principles.

A. Minimizing the Cost of Achieving the RPS

Both proposals have mechanisms to minimize the cost of achieving the RPS. The ED Revised PEL proposal depends on application of Least Cost/Best-Fit principles to guide utility procurement. Importantly, this approach seeks to obtain renewable resources that are best able to integrate into the electric grid while minimizing integration costs. In light of statutory prescriptions and Commission rules imposing a least-cost/best-fit approach to RPS procurement,

IEP is not convinced that the Joint Parties' revised approach provides any additional value with regards to minimizing the cost of achieving the RPS.

B. Rely on a Transparent Process

The Joint Parties suggest that a significant advantage of their approach is a greater level of transparency related to RPS procurement decisions and section 399.15(d). IEP remains unconvinced that the Joint Parties' proposal is more transparent than either the status quo or the ED's revised PEL proposal.

The current practice for selecting RPS resources entails a number of steps by which the Commission exercises its oversight, and under both proposals these steps remain. First, the Commission authorizes procurement and the utilities conduct a competitive Request for Offers (RFO), the results of which they use to select resources based on the LCBF bid evaluation criteria. Second, each utility application for approval of a PPA (or utility-owned project) is subject to a thorough examination of whether (a) the price, terms, and conditions are just and reasonable, and (b) it fits the utility's plan for meeting the RPS goals. Thus, from IEP's perspective, the Commission already has the means, procedures, and authority to determine the reasonableness of the procurement of individual RPS resources. Moreover, the Commission considers public policy and the impact on consumers as it performs its oversight of utility procurement. Accordingly, the Joint Parties' proposal to add an additional constraint on the Commission's decision-making authority appears unnecessary.

Equally important, the Joint Parties' proposal will reduce the current level of transparency. The Joint Parties' proposal entails a number of critical steps that will be subject to the Commission's rules on confidentiality. For example, the following steps will likely be subject to the Commission's confidentiality rules and not transparent to most members of the public:

- Calculation of the utilities' Acceptable Renewable Rate (ARR), which is essentially the utilities' avoided cost of non-RPS resources;
- Calculation of the utilities' Residual Net Short (RNS) and Adjusted Residual Net Short (ARNS); and
- Calculation of the utilities' Acceptable Renewable Budget (ARB), which is essentially the ARR multiplied by the RNS/ARNS.

The ARR, ARB, and RNS/ARNS are essential elements of the Joint Parties' proposal, yet the determination of these numbers will likely be subject to the Commission's rules on confidentiality and consequently not determined in an open, transparent process. An opaque process would be inappropriate and would undermine the intent to design a cost containment mechanism that is transparent to all stakeholders.

C. Reflect the Expected Costs of Achieving and Maintaining the 33% RPS Requirement

The Joint Parties propose to derive a cost containment price ceiling based on the average price paid for non-renewable resources over the past three years plus a 12-25% "buffer" to reflect the higher costs of RPS resources. This approach, while accurately reflecting the historical costs of non-renewables, fails to (a) take into account the cost of new renewables projected in the future and (b) compare the cost of future renewables against the alternative in the future. As a result, the Joint Parties' revised approach does not take into account the forecast of future RPS costs associated with achieving and maintaining the 33% RPS standard. On the other hand, the ED's Revised PEL proposes to incorporate the best and most up-to-date forecast of RPS costs over a rolling 10-year time horizon consistent with current long-term planning.

D. Facilitate Coordination and Consistency between the RPS and Long-Term Procurement Plan (LTPP) Proceeding

The LTPP process and the Transmission Planning Process (TPP) of the California Independent System Operator forecast a certain amount of renewable procurement. As a result, current infrastructure investment in transmission and distribution upgrades or expansions occurs in anticipation of the future development of renewable resources in select areas, such as Competitive Renewable Energy Zones. To the extent that the Joint Parties' proposal imposes an additional contract-by-contract constraint on future procurement and, thus, future development, consumers will face increasing risk of stranded transmission infrastructure and distribution infrastructure investment.

On the other hand, both proposals suggest a cost containment mechanism built around a 10-year planning horizon. A cost containment mechanism designed around a 10-year planning horizon seems reasonable in light of the current 10-year planning horizons employed by the California Energy Commission (CEC) in the Integrated Energy Policy Report (IEPR) and the Commission in the LTPP proceeding.

E. Encourage Portfolio Level Optimization by IOUs

Currently, a core principle guiding RPS procurement is the utilities' obligation to meet their RPS obligations through a least-cost and best-fit approach to resource selection. Presumably, this approach encourages portfolio level optimization by the utilities. If this is not happening, IEP suggests that the problem resides in the application of the LCBF methodology and the fix should occur there.

Nothing in the ED's revised PEL proposal undermines the objective of optimizing the portfolio. On the other hand, the Joint Parties' Proposal, because it imposes a cost ceiling on an avoided cost basis, risks elevating the importance of Least-Cost relative to Best-Fit. This

approach could result in a less than optimal RPS portfolio if a single technology is selected as the only technology to be priced beneath the cost ceiling.

III. CONCLUSION

The Commission is presented with two dramatically different approaches to establishing a cost containment ceiling. IEP favors the ED's revised PEL proposal for a number of reasons, not the least of which is that it does not restrain Commission decision-making, but rather affords the Commission the appropriate discretion to make decisions regarding RPS resource procurement based on contemporaneous facts and dynamic future expectations.

At this point, IEP recommends that the Commission should pick a cost-containment approach based on the conceptual proposals submitted to date. The current practice of addressing all proposals with detailed questions seems inefficient and unnecessary. Once the Commission picks a proposal, then stakeholders, ED staff, and the Commission can address more succinctly the details of how that single proposal will be designed and implemented.

To the extent the questions posed in the ALJ's February 20 Ruling are not addressed above, Attachment A provides IEP's answers to some of the remaining questions posed by the ALJ's Ruling.

Respectfully submitted this 19th day of March, 2014 at San Francisco, California.

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: bcragg@goodinmacbride.com

By /s/ Brian T. Cragg

Brian T. Cragg

Attorneys for the Independent Energy
Producers Association

VERIFICATION

I am the attorney for the Independent Energy Producers Association in this matter. IEP is absent from the City and County of San Francisco, where my office is located, and under Rule 1.11(d) of the Commission's Rules of Practice and Procedure, I am submitting this verification on behalf of IEP for that reason. I have read the attached "Comments of the Independent Energy Producers Association on Revised Staff Proposal and Updated Alternative Proposals for a Methodology to Implement Procurement Expenditure Limitations for the Renewables Portfolio Standard Program," dated March 19, 2014. I am informed and believe, and on that ground allege, that the matters stated in this document are true.

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

Executed on this 19th day of March, 2014, at San Francisco, California.

/s/ Brian T. Cragg

Brian T. Cragg

Attachment A:

IEP's Answers to Questions Posed in the ALJ Ruling Requesting Comments on the Revised Staff Proposal and Updated Alternative Proposals

1. What adjustments, if any, should be made to the IOU's effective revenue requirements for the purpose of calculating the PEL? For example, should the effective revenue requirement be net of balancing and memorandum accounts or representative of the actual authorized expenses for the year in which the revenue requirement is effective?

IEP has no comment at this time.

2. The Revised Staff Proposal would base the PEL Ratio, in part, on prior year's effective revenue requirement for each IOU. If an IOU has filed a 2014 effective revenue requirement, should that be used to calculate the PEL Ratio for a 2014-2023 period? Why or why not?

The PEL ratio should be based on the most recent year for which a revenue requirement has been approved by the Commission.

a. Should the effective revenue requirement used for all the IOUs be from the same year? Why or why not?

No, the same year need not be the rule. The determination of the individual utilities' revenue requirements may not always occur in the same year.

3. Should the Commission's evaluation of whether or not the PEL Ratio would result in a PEL Budget that prevents a disproportionate rate impact focus on the highest ratio during the PEL period? The average ratio? Something else?

The PEL should be based on the highest ratio during the forecast period to afford the Commission the flexibility and discretion necessary to effectively to manage the RPS program in light of public policy objectives.

4. Should the Commission's evaluation of whether or not the PEL Ratio would result in a PEL Budget that prevents a disproportionate rate impact focus on any specific rate components of the IOU's total revenue requirement?

No. The Legislature did not require the Commission to set the cost-containment ceiling based on a single component of the total array of rates borne by consumers. Furthermore, to do so would risk curtailing the RPS program when the RPS program's cost increases may pale in comparison to the rate impacts associated with energy efficiency, nuclear decommissioning, or transmission and distribution upgrades and expansions.

5. What are the advantages and disadvantages of a multi-year fixed budget, such as that presented in the Revised Staff Proposal?

One key advantage is that a multi-year fixed budget provides the utilities and the Commission the flexibility to implement the RPS procurement to achieve a truly least-cost/best-fit outcome.

- a. **Is the 10-year period of the PEL Budget too long, too short, just right? Please explain your reasoning, with quantitative examples if relevant.** A 10-year PEL budget seems appropriate, particularly in light of the fact that LTPP planning and IEPR planning is conducted on a 10-year planning horizon.

Some parties have suggested that the renewable budget should be based on a fixed 10-year planning horizon against which all procurement would be tested. On the other hand, the ED revised PEL proposed a rolling 10-year budget. From IEP's perspective, the rolling 10-year budget approach seems to provide the Commission the same information necessary to determine whether individual renewable resources may be procured in light of an RPS budget without imposing needless constraints.

For example, when presented with a resource proposal, the Commission would have available information related to the utility's Residual Net Short (RNS) and information regarding forecast costs of contracted resources (both operational and planned). From this information, the Commission would make a determination about whether the budget will be constrained during the planning horizon. On the other hand, IEP has concerns about proposals for a fixed planning horizon because the Commission may face unnecessary constraints on decision-making. For example, assume year 6 of a 10-year planning period. The Commission is presented with a 20-year term PPA. Should the Commission compress the net present value of the whole contract into the remaining four years of the fixed period?

Alternatively, if the Commission applies only the first four years of the 20-year PPA against the remaining term of the fixed budget period, then the Commission appears to be applying a rolling approach, as proposed by the ED revised PEL. At this point, IEP recommends application of a rolling-period approach to establishing a RPS budget.

- b. **Is the revisit of the PEL Budget after four years too long, too short, just right? Please explain your reasoning, with quantitative examples, if relevant.**

A 4-year revisit window seems appropriate. This period will roughly correspond to two LTPP/IEPR planning cycles.

6. Would your view of a 10-year PEL Budget be different if the RPS PQR were to be increased beyond the levels set in Section 399.15(b)(2)(B), as implemented in D.11-12-020, either by legislative action or by the Commission, using its authority under AB 327?

Why or why not?

IEP has no comment at this time.

7. Would your view of the Revised Staff Proposal as a whole be different if the RPS PQR were to be increased beyond the levels set in Section 399.15(b)(2)(B), as implemented in D.11-12-020, either by legislative action or by the Commission, using its authority under AB 327? Why or why not?

IEP has no comment at this time.

a. Does your answer depend on the level at which an increased PQR would be set? For example, would your answer be different if the level were 35% of retail sales in 2025, compared to 50% of retail sales in 2030? Why or why not?

Yes.

b. Would your view of each updated alternative proposal as a whole be different if the RPS PQR were to be increased beyond the levels set in Section 399.15(b)(2)(B), as implemented in D.11-12-020, either by legislative action or by the Commission, using its authority under AB 327? Why or why not? Please provide relevant quantitative examples for all responses. IEP has no comment at this time

8. Please compare the updated alternative proposals to the Revised Staff Proposal and to each other with respect to the monetary limits (such as the PEL Budget proposed by staff) that would be set by each methodology. Please provide quantitative examples if relevant.

See comments above, Sections I-III. A larger budget provides the Commission the flexibility to exercise its proper discretion and decision-making when considering each utility's PPAs resulting from the application of its least-cost/best-fit bid evaluation methodology.

9. The Revised Staff Proposal would rely on an IOU's RNS based on the Commission-approved methodology for RPS procurement plans. This methodology includes the assumption that any RNS resulting from the calculation is first met with excess procurement that is available to the IOU. As a result, the calculation could show that an IOU's RPS procurement need may be deferred for several years. This in turn could significantly reduce the forecasted procurement expenditures to meet the RNS for purposes of setting an IOU's PEL.

a. For purposes of the PEL, what are the advantages and disadvantages of the RNS assumption described above? IEP notes that, consistent with AB 327, 33% is no longer the ceiling on RPS procurement. Rather, 33% is the floor, the required minimum. Thus, the RNS not prescribes a minimum goal for the utilities to achieve. In this sense, while providing a "guidepost" on

performance, it is not a procurement constraint or a budget ceiling on procurement of RPS resources.

- c. Do the advantages or disadvantages change depending on the timeframe over which the PEL is calculated? How?**
- d. If the disadvantages of the RNS assumption outweigh the advantages, what methodology for calculating an IOU's RNS should be used for purposes of the PEL?**
- e. Please discuss the same issues with respect to the accounting for excess procurement available to an IOU in each updated alternative proposal. Please provide relevant quantitative examples for all responses.**

10. Pursuant to Section 4.2.1.2. of the Revised Staff Proposal, forecasted procurement expenditures would be "calculated as the levelized, TOD adjusted contract price multiplied by the total maximum annual expected MWh generated in each year during the PEL period" Is there a standard method for IOUs to determine the total maximum annual expected MWh generated in each year? IEP has no comment at this time.

- a. If yes, please describe the method and provide quantitative illustrations, if relevant. Please also provide a publicly available source for the method.**
- b. If not, how should this be derived?**

11. How does annual generation from RPS-eligible facilities currently under contract with California IOUs compare to what the IOU expected to procure? Please use publicly available information in responding to this question. Aggregating the information to preserve any confidential data is acceptable. Please be as quantitatively precise as possible within the limits of the available data. IEP has no comment at this time.

- a. Are RPS facilities generating approximately equal to the expected generation amount identified in the contract or the advice letter filed seeking Commission approval of the contract? If not, on average are RPS facilities generating more or less than the expected amount and by what margin (e.g., 10% greater generation than expected)?**
- b. Does the difference in generation amounts result in a commensurate difference in procurement expenditures?**

12. Are procurement expenditures associated with utility planned UOG accounted for in the IOU's effective revenue requirement? If not, how should planned UOG with expected expenditures during the 10-year PEL timeframe be reported and accounted for?

IEP has no comment at this time.

13. The Revised Staff Proposal sets the PEL based, in part, on a forecast of renewable resource costs. Please comment on whether any modifications are needed to the Revised Staff Proposal to account for forecast error of renewable resource costs, taking into account existing RPS procurement processes that act to contain costs (e.g., competitive solicitations, LCBF evaluation). Please provide illustrative examples of any proposed modifications.

RPS procurement needs to take into account the risk of failure, the need for advance lead-times to develop projects to meet future need, and the "lumpiness" of resource additions. These considerations require discretion and flexibility in Commission decision-making.

14. Is it necessary to sum procurement expenditures in a serial manner when calculating RPS procurement expenditures? If so, in what order should expenditures be counted against the PEL?

IEP has no comment at this time.

- a. **Should the method for counting expenditures against the PEL Budget be "first in, first counted" based on contract execution date or facility commercial online date?**
- b. **Should a version of the "loading order" proposed for filling the RNS for PEL purposes (procurement from specifically mandated RPS procurement programs up to the program limit, then generic RPS procurement) be used? For example, first, forecasted expenditures from all mandated RPS procurement programs, then other expenditures?**
- c. **Should there be a rank ordering based on the nature of the procurement contract? For example, all expenditures from long-term contracts first; all expenditures from other contracts approved through the RPS procurement advice letter process second; all RPS-eligible procurement mandated by the LTPP proceeding third; all procurement from specified RPS procurement methods (RAM and FiT) next, etc.?**

IEP has no comment at this time.

- d. Should there be some other method? Please explain the strengths and weaknesses of your preferred method. Please provide quantitative illustrations if relevant. Please also respond to this question with respect to any updated alternative proposals, to the extent relevant and appropriate in light of the methodologies proposed.**

IEP has no comment at this time.

- 15. What process is needed, if any, to take into consideration the impact on an IOU's PEL in the situation where an RPS-eligible procurement authorization by the Commission, or decision by the IOU, is going to be made outside of the RPS proceeding?**

IEP has no comment at this time.

- 16. How should expenditures for RPS-eligible procurement originally authorized outside the RPS proceeding (e.g., SONGS replacement procurement directed through LTPP, R.12-03-014 or R.13-12-010) be applied against the PEL? For example, should these expenditures only be included once a contract is executed? When the Commission requires a specific level and type of RPS-eligible procurement? When the Commission authorizes a specific level and type of RPS-eligible procurement?**

All direct expenditures for resources applied against the utilities' RPS obligations should be counted.

- 17. What are the overall advantages and disadvantages of the proposed PEL Ratio as the basis for the Commission's determination that a PEL Budget will not have a disproportionate rate impact?**

See comments above.

- a. What are the advantages and disadvantages of a ratio compared to choosing a fixed percentage impact (e.g., 5% or 10%) on rates?**

The fixed percentages proposed in other states (e.g., Oregon) are applied in another context and are not applicable to California. For example, California has rules, regulations, and policies in place that foreclose or discourage nuclear resources, large hydro resources, coal resources, relatively high emitting thermal resources, and resources utilizing once through cooling. These rules, regulations, and policies significantly foreclose resource options available to utilities located in California. No other state that has applied a fixed percentage in the 3-5% range has these constraints on utility procurement options. Accordingly, applying a fixed percentage at a level adopted in another state is inappropriate for California.

- b. If a fixed percentage is preferable, how would it be calculated? Please provide quantitative examples.**