**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 REVISED PROPOSALS FOR A PROCUREMENT EXPENDITURE LIMITATION

March 19, 2014

Gregory Morris, Director
The Green Power Institute
a program of the Pacific Institute
2039 Shattuck Ave., Suite 402
Berkeley, CA 94704
ph: (510) 644-2700
fax: (510) 644-1117
gmorris@emf.net

COMMENTS OF THE GREEN POWER INSTITUTE ON REVISED PROPOSALS FOR A PROCUREMENT EXPENDITURE LIMITATION

Pursuant to the February 20, 2014, *Administrative Law Judge's Ruling Requesting Comments on Revised Staff Proposal and Updated Alternative Proposals for a Methodology to Implement Procurement Expenditure Limitations for the Renewables Portfolio Standard Program*, and the February 28, 2014, *Administrative Law Judge's Ruling Revising Schedule for Filing and Service of Revised Staff Proposal and Updated Alternative Proposals for a Methodology to Implement Procurement Expenditure Limitations for the Renewables Portfolio Standard Program*, 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 (GPI), the renewable energy program of the Pacific Institute for Studies in Development, Environment, and Security, provides these *Comments of the Green Power Institute on Revised Proposals for a Procurement Expenditure Limitation*.

Regrettably, due to time and resource limitations the GPI was unable to analyze and test all of the revised PEL proposals to the extent that they deserve. As our *Comments* (following) illustrate, we have concentrated our efforts on the Revised Staff Proposal. We also address, on a higher level, the revised proposals of SCE and CalWEA.

Revised Staff Proposal

We supported the basic approach taken in the original version of the Staff Procurement Expenditure Limitation (PEL) Proposal (July 23, 2013), which essentially involved the construction and monitoring on a biennial basis of a budget for the RPS procurement program of each IOU. The Revised Staff Proposal (February 20, 2014) makes a number of changes in response to parties' comments, most of which are improvements. The GPI believes that the Revised Staff Proposal provides a workable basis for a PEL methodology, as statutorily required for the RPS program.

The Revised Staff Proposal has made improvements in a number of areas. In particular, we are pleased to see that the revised PEL approach is based on a two-step methodology that separates the function of determining whether an IOU's PEL is set at a level that does not cause a disproportionate rate impact from the function of creating, maintaining, and monitoring a working budget for each IOU's RPS procurement. We are concerned about the proposed methodology for step 1 for determining whether an IOU's PEL is set at a level that does not cause a disproportionate rate impact.

The Revised Staff Proposal continues to rely on a computed quantity called the PEL Ratio for purposes of determining whether an IOU's PEL Budget is set at a level that does not cause a disproportionate rate impact. We continue to be concerned that this ratio, which is the ratio of a utility's projected costs of RPS procurement in a given year divided by the utility's revenue requirement for that year, is difficult to interpret. The revenue requirement is a convenient parameter to use, as it is already determined for each IOU for reasons unrelated to the RPS program. However, a utility's revenue requirement includes more than just the cost of energy procurement, and there is no objective way of knowing what percentage of the revenue requirement should be devoted to procurement, with or without the RPS program mandates in effect. Moreover, the PEL Ratio in a given year is a function of the percentage contribution of the energy mix that is derived from renewables, and thus should be expected to be increasing as long as the renewable content of the energy mix is increasing, even if the cost of renewables is less than the cost of conventional energy alternatives.

The Revised Staff Proposal does not suggest imposing a specific cutoff value for the PEL ratio, above which a finding of disproportionate rate impacts would be rendered. Indeed, the Revised Staff Proposal is not very specific about how it will use the PEL Ratio in making determinations of disproportionate rate impact. Questions 1, 3 and 4 in the February 20, 2014, *Ruling*, ask the parties how, in effect, to use the PEL Ratio in making the disproportionate rate-impact determination. For example, questions 1 and 4 ask whether the determination should focus on specific elements of the revenue requirement, rather than using the entire revenue requirement. Question 3 asks whether the determination should be based on the highest PEL Ratio during the 10-year timeframe, the average for the ten years, or something else.

The advantage of using a utility's revenue requirement in the PEL Ratio is that the revenue requirement is already determined in a public process outside of the RPS program. If the Commission were to focus on specific elements of the revenue requirement, then the deconstruction of the revenue requirement would reintroduce the ambiguity that the use of the exogenously determined revenue requirement is intended to avoid, and thereby negate the best reason for using the revenue requirement in the first place.

In the opinion of the GPI, the determination of disproportionate rate impacts should **not** be made on the basis of a single year's data within the ten-year timeframe covered by the analysis, especially not considering the fact that with increasing procurement over time the year with the highest ratio will surely be one of the last years in the timeframe, and it is well know that the reliability of the data for the out-years is not very good at all. The purpose of using a ten-year timeframe is to provide for averaging, and the determination of disproportionate rate impact should be based on averages. Indeed, if any part of the timeframe should be emphasized in determining disproportionate rate impacts, it is the first half of the timeframe, not the second half.

One of the revisions that have been made in the Revised Staff Proposal is that rather than escalating the entire revenue requirement at an annual rate of 2.75 percent, only the non-RPS-procurement-cost component of the revenue requirement will be escalated at 2.75 percent, while the RPS-procurement-cost component will be escalated according to the projections made for the PEL Budget. We have two concerns about using this approach. First, we note that this entails performing a great deal of work for what will be a relatively minor change in the numbers, with the bulk of the change to be registered in the latter part of the timeframe when uncertainties in the data overwhelm the significance of any slight adjustment in the overall escalation rate of the revenue requirement.

Second, we have to question the underlying validity of the approach. At the November 20, 2013, PEL Workshop, GPI representative Gregg Morris asked if it was known whether all of the costs that are included in the PEL Budget are also included in a utility's revenue requirement. Commission staff were unable to answer this question in the affirmative. If there are costs that are included in the PEL Budget that are not included in the revenue requirement, then the proposed methodology for inflating the revenue requirements in the Revised Staff Proposal is flawed. Deconstructing and reconstructing the revenue requirement as proposed can only be mathematically valid if the entire PEL Budget is included in the revenue requirement.

With respect to the first step of the Revised Staff Proposal's PEL methodology, in the opinion of the GPI at some point the PEL methodology needs to deal head-on with the issue of just what constitutes a disproportionate rate impact attributable to renewable-energy procurement. This issue is not adequately dealt with in the February 20, 2014, version of the Staff PEL Proposal. We note that the CalWEI proposal (see discussion below) does a much better job of dealing with this issue.

We support the Staff Proposal in its description of the second step in the PEL process, which is to specify the PEL Budget for each utility, defined as the annual numerators of the PEL Ratios, and monitor its ongoing RPS procurement activities within the confines of the budget. Paul Douglas, RPS program manager for the PUC, stated at the November 20, 2013, Workshop on the PEL, that the staff looks at the PEL primarily as a cost-management tool, and we agree that that should be its primary purpose. Using the PEL Budget as a cost-management tool is exactly what SB 2 (1X) is looking for, and is completely consistent with the guiding principles the Commission has proposed for the PEL methodology.

The original Staff PEL Proposal was based on a biennial refresh cycle for the PEL Budgets and PEL Ratios. Some of the parties expressed the concern that a two-year refresh cycle was so short that the PEL Budgets would be reset before they could be used to monitor and possibly control RPS program costs. The Revised Staff Proposal employs a four-year refresh cycle. Question 5b in the *Ruling* asks whether the four-year refresh cycle is too long, too short, or just right. Our observation is that the greater the maturity a market has achieved, the longer the refresh rate can be allowed to be. The renewables market is still rapidly evolving, and extending the refresh rate out too far could serve to inhibit innovation. The GPI would prefer that a refresh cycle of three years be used for the time being, with a possible extension to four years to be considered sometime in the future.

Questions 6 and 7 in the *Ruling* deal with the issues that might arise if long-term RPS goals, currently 33-percent in 2020 and steady thereafter, were to be extended by Commission or legislative action. The GPI favors extending current RPS goals, and believes that the PEL methodology that is adopted should be able to operate equally well with or without an extension of the program goals. We do not see any issues in this specific regard with any of the revised proposals, insofar as we were able to review.

The Revised Staff Proposal uses the calculation of the utility's RNS in its methodology for determining the PEL Budget. Question 9 in the *Ruling* asks about the suitability of incorporating the RNS projections, which are developed in another track of this proceeding for purposes of long-term RPS procurement planning, into the PEL methodology, particularly with respect to how the RNS methodology handles surplus RPS procurement. The description of the RNS methodology in Question 9 is based on the currently-approved RNS methodology. In fact, on February 19, 2014, the Commission published a *Ruling* in another track of this proceeding that included a staff proposal for revisions to the RNS methodology, including revisions in how surplus REC procurement is handled. *Comments* on the staff RNS proposal were filed last week, on March 12. The description of the RNS methodology in Question 9 will become obsolete if the proposed revisions are made. In any case, there is every reason to believe that retail sellers who hold surplus RECs will attempt to use these RECs to help keep down their overall costs of RPS compliance.

Revised SCE Proposal

During the first phase of the California RPS program (2003 - 2010), the cost-control mechanism for the program involved a contract-by-contract determination based on the MPR, which was the computed cost of energy production at a conventional generating facility (modern combined cycle). Due to widespread dissatisfaction with the MPR, the Legislature changed the cost-control section of the RPS statutes as part of SB 2 (1X), which constituted a major overhaul of the RPS program. SB 2 (1X) scraped the MRP, and changed the cost-control mechanism for the RPS program from one that is based on monitoring individual PPAs, to one that is based on controlling costs at the programmatic level.

The SCE et. al. proposal combines the cost-control approaches from both phases of the RPS program by applying cost controls at both the individual contract level, and at the programmatic level. It appears that the SCE et. al. proposal is designed with an overall objective of providing retail sellers with multiple off-ramps from their obligations to comply with the RPS program, rather than being designed to enable full compliance with the RPS program while ensuring that programmatic goals are achieved at a just and reasonable cost to the ratepayers, which is consistent with the guiding principles for the PEL methodology.

SB 2 (1X) expressly disposes of the MPR, and the control-by-individual-contract approach to cost control for the RPS program. We strongly object to the SCE et. al. proposal's attempt to, in effect, reintroduce it into the PEL process. Consistent with SB 2 (1X), the PEL should be based going forward on cost control applied at the programmatic level.

Revised CalWEA Proposal

The revised CalWEA proposal has one great advantage over the other proposals. It is the only proposal that attempts to deal directly with the statutory directive to make a determination as to whether a utility's PEL Budget causes a disproportionate rate impact for its ratepayers. As the CalWEA proposal points out, while it is necessary to compare the cost of renewable procurement to something else in order to determine whether the cost of renewables is disproportionate, it is no longer sufficient to simply compare the costs of renewables to the costs of fossil generation, in effect defining the non-RPS scenario as an all-fossil case. Dropping the RPS requirement from the non-RPS scenario does not mean that the requirements of other laws, such as AB 32, are also dropped. The non-RPS scenario should not be an unrestricted-carbon case, which is what is used in both the Revised Staff Proposal and the SCE revised proposal.

The CalWEA revised proposal constructs what they consider to be a suitable non-RPS scenario for purposes of comparing to the RPS case in order to facilitate the Commission's job of making the call on disproportionate rate impacts. Unfortunately, we are not able to review and analyze their proposal in sufficient detail to allow us to endorse it. Based on our preliminary review, it appears that it certainly provides a sound approach to the construction of the non-RPS case, and at the very least provides a suitable starting point.

Dated March 19, 2014

Respectfully Submitted,

Gregg Morris

Gregory Morris, Director
The Green Power Institute
a program of the Pacific Institute
2039 Shattuck Ave., Suite 402
Berkeley, CA 94704
ph: (510) 644-2700
e-mail: gmorris@emf.net

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 Revised Proposals for a Procurement Expenditure Limitation*, 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 March 19, 2014, at Berkeley, California.

Gregg Morris

Gregory Morris