

**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)

**PACIFIC GAS AND ELECTRIC COMPANY'S (U 39-E)
REPLY COMMENTS**

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Dated: July 2, 2014

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I. INTRODUCTION

Pursuant to the Administrative Law Judge's Ruling of June 6, 2014, Pacific Gas and Electric Company ("PG&E") hereby submits reply comments on the CalFIRE White Paper submitted on May 9, 2014, by Placer County Air Pollution Control District ("Placer"). PG&E is supportive of the efforts by Placer, the Sierra Nevada Conservancy, and CalFIRE (collectively "Stakeholders") to bring about a consensus definition of byproducts of sustainable forest management. Furthermore, PG&E appreciates the clarifications presented by Placer and other stakeholders in opening comments on the White Paper submitted for the record. Many of the opening comments resolve PG&E's concerns regarding the policy elements proposed in the White Paper. These clarifications on the White Paper's policy recommendations – which go beyond the mere definition of "sustainable forest management" and venture into monitoring, enforcement and power purchase agreement ("PPA") terms – are the reason PG&E requested a formal comment period. In these reply comments, PG&E responds to opening comments related to sustainable forest management definition, feedstock flexibility, compliance, and enforcement.

II. DEFINITION OF SUSTAINABLE FOREST MANAGEMENT

PG&E appreciates Placer’s response to PG&E’s proposal to clarify the definition of both Infrastructure Clearance Projects and Fire Safe Clearing Activities. Placer agrees with PG&E’s suggestion to clarify the definition of Fire Safe Clearing Activities to explicitly include biomass feedstock originating from fuel reduction projects undertaken by Non-Governmental Organizations such as Fire Safe Councils, Homeowners’ Associations and other community-based entities to the definition of Fire Safe Clearance Activities.^{1/} Placer also agrees that the definition of Infrastructure Clearance Projects should be expanded to include water conveyance systems (canals, penstocks, flumes, tunnels etc.), gas lines and telecommunication lines.^{2/} PG&E appreciates these clarifications and has no further comment.

III. FUEL SWITCHING AND FEEDSTOCK FLEXIBILITY

PG&E appreciates the clarifications by both Placer and the Bioenergy Association of California (“BAC”) that facilities must ensure that 80% of their feedstock at all times is from the Senate Bill (“SB”) 1122 feedstock category from which it received its contract, and fuel switching should be allowed only for the 20% remainder.^{3/} PG&E agrees that this is consistent with the recommendation of the CPUC’s Staff Proposal, that facilities have a 20% buffer for compliance in order to enable facilities to adapt to feedstock sourcing variability.

In opening comments, BAC states that the White Paper assumes the level of feedstock flexibility recommended in the Staff Proposal and therefore “PG&E has no basis for re-litigating the issue in a Response that is supposed to focus on the CalFire White Paper.”^{4/} As a reminder, the Staff Proposal requires that an SB 1122 bioenergy project must source at least 80% of its fuel on an annual basis must be sourced from the same SB 1122 category pursuant to which it received its contract,^{5/} while the White Paper suggests that the feedstock eligibility be

^{1/} Placer comments, pp. 2-3.

^{2/} Placer comments, p. 3.

^{3/} Placer comments, p. 5; BAC comments, p. 2.

^{4/} BAC comments, p. 3.

^{5/} CPUC, Staff Proposal on Implementation of SB 1122, November 19, 2013, pg. 13.

determined on a five-year rolling average. In its opening comments, PG&E agreed to support the five-year rolling average, which is an additional relaxation of contract terms from what the Staff Proposal had suggested.

PG&E appreciates the clarification by Placer in opening comments that audits be conducted every other year^{6/} and supports that recommendation in order to provide facilities with greater flexibility and reduced costs. PG&E also supports Placer's recommendation that for the first four years after a facility comes online, audits should be done in years two and four and compliance should be determined on a two-year average. PG&E believes that the CPUC's proposal to provide facilities with a 20% buffer, coupled with the additional leniency provided by Placer's proposal to create a system of bi-annual audits and a five-year rolling average, is a sufficient relaxation of compliance requirements to address concerns about feedstock variability.

Any additional leniency through watering down enforcement or contract provisions that ensure compliance would violate the intent of SB 1122. The Legislature specifically required targets for each feedstock category in order to promote projects from all three bioenergy sources and technologies, while at the same time ensuring ratepayer protection from undue cost burden. If the Legislature had meant for fuel switching or leniency between project categories, it would have merely mandated a 250 MW for the entire program, without specifying sub-mandates for the three categories. Moreover, the Commission has proposed a pricing mechanism that recognizes the disparity in Levelized Cost of Energy among the three SB 1122 categories. If a facility opts to use cheaper feedstock, it should not be eligible to receive a higher PPA price at the expense of ratepayers for a feedstock it is not consuming.

BAC also disputes PG&E's concern that feedstock flexibility may lead to higher prices in its opening comments.^{7/} As PG&E noted in previous comments, if there are no enforcement mechanisms in place to ensure a facility is consuming the feedstock it has committed to using in

^{6/} Placer comments, p. 4.

^{7/} BAC comments, p. 3.

the SB 1122 queue, facilities will opt to participate in the queue that offers the highest PPA price and provides the greatest opportunity for profit at the expense of ratepayers, thereby undermining the efficacy of the cost containment mechanisms developed in the ReMAT program and proposed in the SB 1122 Staff Proposal.

IV. PPA TERMINATION

BAC and Placer object to PG&E's proposal for an automatic contract termination provision if *on a five-year rolling average* a facility is found to be supplying *more than 20%* of its feedstock from fuels not in the feedstock category from which it received its contract. BAC and Placer oppose this on the ground that "an automatic termination clause at the first instance is too harsh and would dampen investor interest in these facilities."^{8/} Those claims are unfounded. The facility has control over the feedstock it uses, so it should take steps to ensure the fuel mix, with the added flexibility of the 80/20 rule, meets the fuel type requirement. Projects should assess their ability to acquire sufficient, eligible feedstock and meet guaranteed energy production, in order to participate in a market and provide cost-effective energy to California customers. PG&E also notes that the 20% buffer, along with a five-year rolling average, is already a significant signal to financiers of favorable enforcement terms. Further weakening enforcement of SB 1122 categories would undermine the intent of the Legislation and could result in a program that places an excessive burden on ratepayers without the benefits of using the feedstocks that have been deemed as beneficial to those ratepayers.

V. CONCLUSION

PG&E supports the definitions and policy proposals outlined in the CalFIRE White Paper, with some modifications outlined in its opening and reply comments. PG&E reiterates the importance of developing effective compliance and enforcement mechanisms and provisions within the SB 1122 program in order to ensure that the Legislature's intent is honored and that

^{8/} Placer comments, pp. 4-5; BAC comments, pp. 3-4.

ratepayers are not paying high costs for bioenergy projects that are not achieving the benefits they were intended to achieve under the SB 1122 program.

Respectfully submitted,

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By: /s/ JUDI K. MOSLEY
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Dated: July 2, 2014

VERIFICATION

I am an employee of Pacific Gas and Electric Company, a corporation, and am authorized to make this verification on its behalf. I have read the foregoing ***PACIFIC GAS AND ELECTRIC COMPANY'S (U 39-E) REPLY COMMENTS***. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein 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 this 2nd day of July, 2014 at San Francisco, California.

/s/ *KAREN KHAMOU*

KAREN KHAMOU

Manager, Renewable Energy Policy and Planning
Pacific Gas and Electric Company