

**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)

**JOINT PARTIES' COMMENTS ON THE ORDER
INSTITUTING RULEMAKING 11-05-005**

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On Behalf of PACIFIC GAS AND ELECTRIC
COMPANY, SOUTHERN CALIFORNIA EDISON
COMPANY, SAN DIEGO GAS & ELECTRIC
COMPANY, THE CALIFORNIA WIND ENERGY
ASSOCIATION, COALITION OF CALIFORNIA
UTILITY EMPLOYEES, DIVISION OF RATEPAYER
ADVOCATES, THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION, LARGE-SCALE SOLAR
ASSOCIATION, NEXTERA ENERGY RESOURCES,
AND THE UTILITY REFORM NETWORK

Dated: May 31, 2011

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OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program.

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INSTITUTING RULEMAKING 11-05-005**

Pursuant to Ordering Paragraph 8 of the California Public Utilities Commission's ("Commission") Order Instituting Rulemaking 11-05-005 (the "OIR") and the Commission's Rule of Practice and Procedure 6.2, Pacific Gas and Electric Company ("PG&E") (U 39-E), Southern California Edison Company ("SCE") (U 338-E), San Diego Gas & Electric Company ("SDG&E") (U 902-E), the Division of Ratepayer Advocates ("DRA"), The Utility Reform Network ("TURN"), the Independent Energy Producers Association ("IEP"), the Large-scale Solar Association ("LSA"), the California Wind Energy Association ("CALWEA"), Coalition of California Utility Employees ("CUE"), and NextEra Energy Resources ("NextEra") (collectively, the "Joint Parties") submit these comments on the OIR (the "Joint Parties' Comments").

As directed by Ordering Paragraph 9 of the OIR, the Joint Parties conferred with each other to determine whether there was agreement on the issues, priorities, schedule, and any other matters to be considered in this proceeding. These Joint Parties' Comments reflect the outcome of those discussions. In particular, Attachment 1 to this filing (the "Joint Parties Issue Matrix") provides a summary of the Joint Parties' respective recommendations on the priorities that the Commission should give to the issues identified in the OIR and Attachment A to the OIR. The

Joint Parties have categorized issues as Tier 1, Tier 2 or Tier 3 issues. Tier 1 includes the highest priority items that require immediate Commission action and should therefore be considered and resolved by the Commission as soon as possible. Tier 2 and Tier 3 issues can be considered in order after Tier 1.

While there is not complete unanimity among the Joint Parties as to which tiers specific issues should be in, the Joint Parties Issue Matrix shows that there are key areas of agreement regarding the highest priorities for this OIR. The Joint Parties urge the Commission to move expeditiously to resolve these priority issues. In particular, the Joint Parties agree that the Commission's immediate focus should be on establishing the quantities which will reflect the new Renewables Portfolio Standard ("RPS") targets, clarifying the timing of procurement obligations, and developing product content rules, including revising the limits on renewable energy credit transactions.¹ More generally, the Commission's initial focus should be on the issues related to the *targets* that retail sellers, including the investor-owned utilities, are to achieve under the new RPS legislation and the *products* they are authorized to procure to meet those targets. These are clearly Tier 1 issues. Resolution of these issues is important to give retail sellers certainty regarding new RPS goals and what types of products can be used to meet those goals. In order to meet the aggressive RPS goals adopted by the legislature in Senate Bill X1 2, and in light of the long project development timelines confronting many new renewable projects, the Commission needs to move quickly to define key regulatory requirements that will allow RPS procurement contracts to be negotiated and executed, which in turn will facilitate project financing and, ultimately, project development.

¹ The Joint Parties were unanimous in identifying several issues as Tier 1 priorities. *See e.g.*, the Joint Parties Issue Matrix, Attachment 1 to this filing (Issue #1, Items 1.a, 1.b, 1.d, 2.a, 2.b (with the exception of DRA), 2.d, 2.e, and 2.f; Issue #3, Item 1.b; and Issue #6, Item 3.c).

Once the Tier 1 issues are resolved, the Commission should focus on Tier 2 issues such as modifications needed for the next (2012) procurement plans and the regulatory approval process for RPS transactions.² Tier 3 issues can be resolved after the Tier 2 issues. Although the Joint Parties differ to some extent on the prioritization of specific issues within each of the tiers, the Joint Parties Issue Matrix shows significant consensus in Tiers 2 and 3, in addition to the very broad agreement on Tier 1.

The individual Joint Parties reserve the right to file separate additional comments addressing the issues raised by the OIR, including the proposed schedule for resolving these issues.

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² The Joint Parties had significant, although not unanimous, agreement with regard to many Tier 2 issues. *See e.g.*, Joint Parties Issue Matrix, Attachment 1 to this filing (Issue #1, Item 3; Issue #2, Item 1.a; and Issue #6, Items 3.a. and 3.b).

The Joint Parties have authorized PG&E to file these comments on their behalf.

Respectfully Submitted,

CHARLES R. MIDDLEKAUFF
CORY M. MASON
M. GRADY MATHAI-JACKSON

By: /s/ M. Grady Mathai-Jackson
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Dated: May 31, 2011

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) Opening Comments on the Order Institute Rulemaking 11-05-005,” and the separately filed “Joint Party Comments on the Order Institute Rulemaking 11-05-005,” both dated May 31, 2011. The statements in the foregoing documents 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 31st of May, 2011 at San Francisco, California.

/s/ Valerie Winn

Valerie Winn
Manager
Pacific Gas and Electric Company

ATTACHMENT 1

Attachment 1: Joint Parties' Recommendations on Scoping and Prioritization of Issues in R.11-05-005

LEGEND:
Tier 1
Tier 2
Tier 3
Ongoing: Issue that the CPUC should address throughout the proceeding or depending on the timing of advice letters or applications filed
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<i>Italicized issues or sub-issues have been added to the preliminary scoping order list included in the OIR.</i>

	PG&E	SCE	SDG&E	CaWEA	CUE	DRA	IEP	LSA	Nextera	TURN
Issue 1: Modify Program to Implement Recent Legislation										
1 Modify Renewables Portfolio Standard (RPS) compliance rules										
a. Adopt new RPS compliance targets by January 1, 2012. (399.15(b))	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1
b. Modify flexible compliance rules, including implementing different banking rules for different types of RPS contracts. (399.13(a)(4)(B))	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1
c. Modify annual compliance reporting requirements. (399.14(a)(3))	Tier 2	Tier 3	Tier 3	Tier 2	Tier 2	Tier 1		Tier 2	Tier 2	Tier 2
d. Resolve seams issues between the 20% RPS and 33% RPS compliance requirements, including implementing the provision that any retail seller procuring RPS eligible energy for at least 14% of retail sales in 2010 shall not have its RPS procurement deficits, if any, added to future procurement requirements. (399.15(a))	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1		Tier 1
2 Modify renewable energy credit (REC) trading rules (suggest instead calling category: Implement Product Content Requirements)										
a. Modify the definition of renewable energy credits to eliminate delivery requirement and other changes (399.12(g), 399.21(4-5))	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1
b. Modify REC trading rules to provide that, in order to count for RPS compliance, RECs must be retired in the tracking system within 36 months from the initial date of generation of the associate electricity. (399.21(a)(6))	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 2	Tier 1	Tier 1	Tier 1	Tier 1
c. Adopt rules for evaluating, and possibly auditing, the portfolio content category of all RPS transactions (399.16(b)). <i>Suggest instead this category be called: Implement auditing rules.</i>	Tier 2	Tier 3	Tier 3	Tier 2	Tier 1	Tier 2		Tier 2		Tier 1
d. Define new terms, e.g. "firmed and shaped", "incremental energy" and "unbundled" RECs. (399.16(b))	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1
e. Implement usage limitations on REC transactions (399.16(c)). <i>Suggest instead this category be called: Implement accounting rules for product content requirements.</i>	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1
f. Develop rules for REC contracts executed prior to June 1, 2010, including determining what it means for a contract to "count in full" toward RPS procurement requirements. (399.16(d))	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1
g. Develop a methodology for evaluating whether "procurement content requirements" (e.g. REC usage limits) should be reduced at the request of a retail seller. (399.16(e))	Tier 3	No advanced implementation necessary	No Advanced implementation necessary	Tier 3	Tier 3	Tier 3		Tier 3	Tier 3	Tier 3
3 Modify RPS procurement plans										
a. Modify the bid evaluation methodology (i.e., least-cost best-fit) to include evaluations or project viability and workforce recruitment. (399.13(a)(4)(A)(iii))	Tier 2	Tier 3	Tier 2	Tier 2	Tier 2	Tier 2		Tier 2	Tier 2	Tier 2
b. Adopt minimum margins of over-procurement (399.13(a)(4)(D))	Tier 2	Tier 3	Tier 2 (assuming minimums are not applied to the 2011 RFO)	Tier 2	Tier 2	Tier 1		Tier 2	Tier 1	Tier 2

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	PG&E	SCE	SDG&E	CalWEA	CUE	DRA	IEP	LSA	Nextera	TURN
c. Modify annual RPS procurement plan requirements to include potential compliance delays, a status update on projects' development schedules, price adjustment mechanisms and risk assessments. (399.13(a)(5))	Tier 2	Tier 2 to extent this addresses improvements to plan approval process	Tier 2	Tier 2	Tier 2	Tier 1		Tier 2	Tier 2	Tier 2
d. Implement requirement that retail sellers must procure minimum quantity of long-term contracts prior to counting short-term contracts with existing facilities for RPS compliance, in place of requirement in D.07-05-028 setting minimum quantity of long-term contracts and/or short-term contracts with new facilities prior to counting short-term contracts with existing facilities. (399.13(b))	Tier 3	Tier 3	Tier 3	Tier 2	Tier 3	Tier 3		Tier 3	Tier 1	Tier 3
e. Develop a methodology for giving preference to "California-based projects". Including defining this term. (399.13(a)(7))	Tier 2	Tier 2	Tier 2	Tier 2	Tier 2	Tier 3		Tier 2		Tier 2
f. Interpret and implement provision that RPS transactions must be submitted for CPUC review "unless previously preapproved by the Commission" (399.13(d))	Tier 3	Tier 2	Tier 3	Tier 3	Tier 3	Tier 3		Tier 3		Tier 2
4 Develop RPS cost containment mechanism.										
a. Develop a methodology for calculating and administering an RPS cost limitation for each large and multi-jurisdictional utility. (399.14(c-d, f). 399.17(f).)	Tier 2	Tier 3	Tier 3	Tier 2	Tier 3	Tier 1		Tier 1		Tier 3
b. *Prepare report to Legislature by January 1, 2016 assessing whether each utility can achieve RPS targets within the adopted cost limitation (399.15(e))	N/A - as handled in different proceeding	n/a	n/a	N/A - as handled in different proceeding	N/A - as handled in different proceeding	N/A - as handled in different proceeding		N/A - as handled in different proceeding		
c. *Develop a methodology to determine, and continuously monitor, whether utilities may be close to exceeding the cost limitation. (399.15(g))	N/A - as handled in different proceeding	n/a	n/a	N/A - as handled in different proceeding	N/A - as handled in different proceeding	Tier 1*		N/A - as handled in different proceeding		
5 Modify RPS enforcement rules										
a. Establish the process and rules for implementing new RPS enforcement regime. (399.15(b)(5)). <i>(Suggest renaming issue to: Adopt standard process for seeking, granting, and implementing an RPS enforcement waiver)</i>	Tier 2	No advanced implementation necessary	No advanced implementation necessary	Tier 3	Tier 3	Tier 3		Tier 2	Tier 3	Tier 3
6 Modify and develop new rules for small and multi-jurisdictional utilities.										
a. Revise RPS rules for multi-jurisdictional utilities and qualifying successor entities (399.17)	Tier 1 if for targets and products (Tier 3 for other)	Tier 1 if for targets and products (Tier 3 for other)	Tier 1 if for targets and products (Tier 3 for other)	Tier 1 if for targets and products (Tier 3 for other)	Tier 1 if for targets and products (Tier 3 for other)	Tier 3		Tier 3 (except as appropriate in Tier 1)		Tier 1 if for targets and products (Tier 3 for other)
b. Implement new RPS rules for very small utilities (399.18)	Tier 1 if for targets and products (Tier 3 for other)	Tier 1 if for targets and products (Tier 3 for other)	Tier 1 if for targets and products (Tier 3 for other)	Tier 1 if for targets and products (Tier 3 for other)	Tier 1 if for targets and products (Tier 3 for other)	Tier 3		Tier 3 (except as appropriate in Tier 1)		Tier 1 if for targets and products (Tier 3 for other)
7 Other requirements										
a. *Receive annual reports from utilities that own electrical transmission facilities which identify electrical transmission facilities and upgrades that are reasonably necessary to achieve the RPS. (399.13(a)(2))	N/A - as handled in different proceeding	n/a	n/a	N/A - as handled in different proceeding	N/A - as handled in different proceeding	N/A - as handled in different proceeding		N/A - as handled in different proceeding		

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b. Implement new requirements for approving utility-owned renewable energy generation facilities. (399.14)	Tier 2	No advanced implementation necessary	Tier 2	Tier 3	N/A - handle in any future application proceeding	Tier 3		Tier 3		N/A - as handled in future application
c. *Issue annual cost report and biennial project development report (in consultation with the CEC). (910, 399.19)	N/A - as handled in different proceeding	n/a	n/a	N/A - as handled in different proceeding	N/A - as handled in different proceeding	N/A - as handled in different proceeding		N/A - as handled in different proceeding		
d. *Re-determine effective load carrying capacity requirements for resource adequacy purposes (399.26(d))	N/A - as handled in different proceeding	n/a	n/a	N/A - as handled in different proceeding	N/A - as handled in different proceeding	N/A - as handled in different proceeding		N/A - as handled in different proceeding		
e. *Implement new rules for reviewing applications for a certificate of public convenience and necessity for building or upgrading an electrical transmission line.	N/A - as handled in different proceeding	n/a	n/a	N/A - as handled in different proceeding	N/A - as handled in different proceeding	N/A - as handled in different proceeding		N/A - as handled in different proceeding		
Issue 2: Procurement Plans										
1 Direct the filing of procurement plans consistent with new statutes										
a. Review and accept, modify or reject each plan before commencement of procurement	Tier 2	Tier 2	Tier 2	Tier 2	Tier 2	Ongoing		Tier 2		Tier 2
b. Supervise plan implementation and RPS solicitation	Ongoing		Ongoing	Ongoing	Ongoing	Ongoing		Ongoing		
c. Review results	Ongoing		Ongoing	Ongoing	Ongoing	Ongoing		Ongoing		
Issue 3: Compliance, Reporting And Enforcement										
1 Monitor and enforce compliance of retail sellers with RPS requirements, including but not limited to:										
a. Update formats for reporting RPS-eligible procurement	Tier 2	Tier 3	Tier 3	Tier 2	Tier 2	Tier 2		Tier 2		
b. Clarify compliance requirements for years 2010-2013	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1		Tier 1
c. Act on motions, or on the Commission's own initiative, on specific compliance reports, as necessary	Ongoing	n/a	Ongoing	Ongoing	Ongoing	Ongoing		Ongoing		
Issue 4: Least-Cost Best-Fit										
1 Review and improve bid evaluation methodology, including adjustments, as necessary, for:										
a. Integration cost adders	Tier 3	Tier 3	Tier 3	Tier 3	Tier 3	Tier 2		Tier 1		Tier 3
b. Tradable renewable energy credits (TRECs) (<i>Suggest instead referring to Firming and Shaping Products and Unbundled REC Products</i>)	Tier 3	Tier 3	Tier 2	Tier 3	Tier 3	Tier 2		Tier 3		Tier 3
c. Resource adequacy value	Tier 2	Tier 3	Tier 3	Tier 2	Tier 3	Tier 2		Tier 2		Tier 3
d. Congestion cost adders	Tier 3	Tier 3	Tier 3	Tier 3	Tier 3	Tier 2		Tier 3		Tier 3
e. Appropriate allocation of risk among ratepayers, generation developers, utility shareholders, and financing entities	Tier 3	Tier 3	Tier 3	Tier 3	Tier 3	Tier 2		Tier 2		Tier 3
f. Other issues, including any new statutory requirements	Tier 2	Tier 3	Tier 3	Ongoing	Tier 3	Tier 2		Tier 1 (in conjunction with modifications for SBx1 2 above)		Tier 3

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Issue 5: Implement section 399.20, as amended										
1 Develop requirements for standard tariffs of utilities for RPS-eligible generators of up to three megawatts capacity, including but not limited to:										
a. Supplement briefs already submitted in R.08-08-009 to cover new statutory requirements	Tier 3	Tier 3	Tier 3	Tier 3	Tier 3	Tier 3		Tier 3		Tier 3
b. Establish methodology to determine market price for standard tariffs	Tier 3	Tier 3	Tier 3	Tier 3	Tier 3	Tier 2		Tier 3		Tier 3
c. Set up process for expedited interconnection procedures	Tier 3	Tier 3	Tier 3	Tier 3	Tier 3	Tier 3		Tier 3		Tier 3
Issue 6: Other Ongoing Implementation and Administration										
1 Implementation of amended or new statutes, if any	Ongoing		Ongoing	Ongoing	Ongoing	Ongoing		Ongoing		
2 Further consideration of rules for CCAs and ESPs, as necessary, such as but not limited to:										
a. When obligations start for new entrants	Tier 2	Tier 1 (to extent targets need to be addressed)	Tier 2	Tier 2	Tier 1	Tier 3		Tier 3		Tier 1
b. When obligations under D.07-05-028 and other procurement requirements commence	Tier 2	Tier 1 (to extent targets need to be addressed)	Tier 2	Tier 2	Tier 1	Tier 3		Tier 3		Tier 1
3 Integration of TRECs (Suggest substituting "Firming and Shaping Products and Unbundled REC Products" for "TRECs" throughout) into RPS procurement and compliance rules, such as but not limited to:										
a. Utility evaluation of TREC contracts	Ongoing	Tier 2	Tier 2	Ongoing	Ongoing	Ongoing		Ongoing		
b. Commission process for reviewing TREC contracts and modification, if necessary, of fast-track advice letter procedure (D.09-06-050)	Tier 2	Tier 2	Tier 2	Tier 2	Tier 2	Tier 3		Tier 2		Tier 3
c. Classification of RPS contracts using firm transmission	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1	Tier 1		Tier 1
4 Development of RPS Need Assessment Methodology										
a. Develop methodology to determine RPS resource need and integration into RPS procurement plans	Tier 3	Tier 3	Tier 3	Tier 3	Tier 3	Tier 1		Tier 3		
5 Review and revise STCs for new RPS contracts, as needed, including but not limited to										
a. Green attributes	Tier 2	Tier 3	Tier 3	Tier 2	Tier 2	Tier 2		Tier 2		
b. Eligibility	Tier 2	Tier 3	Tier 3	Tier 2	Tier 2	Tier 2		Tier 2		
c. Whether or not to add a term that provides for ongoing Commission jurisdiction over contract terms and conditions	Tier 3	Tier 3	Tier 3	Tier 3	Tier 3	Tier 3		Tier 2		
6 Ruling on unresolved motions, including but not limited to the Amended Motion of the City of Cerritos for Certain Determinations (December 3, 2010)	Tier 3	As need arises	n/a	Tier 3	Tier 3	Tier 3		Tier 3		
7 Continuation of any unresolved matter in R.08-08-009 that is specifically identified as an issue in the assigned Commissioner's Scoping Memo and Ruling in this successor proceeding	Ongoing	As need arises	Ongoing	Ongoing	Ongoing	Ongoing		Ongoing		
8 Other issues identified by parties or the Commission	Ongoing	As need arises	Ongoing	Ongoing	Ongoing	Ongoing		Ongoing		

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* DRA contends that this item should be included in this proceeding