



BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA

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

Rulemaking 08-08-009
(Filed August 21, 2008)

COMMENTS OF THE UTILITY REFORM NETWORK ON
THE 2010 RENEWABLE PROCUREMENT PLAN UPDATES OF
SOUTHERN CALIFORNIA EDISON, SAN DIEGO GAS & ELECTRIC
AND PACIFIC GAS & ELECTRIC



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April 23, 2010

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AND PACIFIC GAS & ELECTRIC**

Pursuant to the March 19, 2010 Ruling of Administrative Law Judge Burt Mattson, The Utility Reform Network (TURN) submits this comments on the updated 2010 Renewable Procurement Plans of Southern California Edison (SCE), San Diego Gas & Electric (SDG&E) and Pacific Gas & Electric (PG&E). The ALJ asks each utility to amend their plans to illuminate, consistent with the provisions of Ordering Paragraph of D.10-03-021, their plans for the use of tradable renewable energy credits (TRECs) to meet RPS targets. Specifically, the utilities were directed to

include as much detail as currently possible on whether the utility intends to use long-term or short-term contracts, and whether the utility expects to contract with newly constructed generation, or acquire tradable renewable energy credits from facilities that are currently on line. The amendments shall also explain how these transactions will promote the development of new renewable facilities in California and the area served by the Western Electricity Coordinating Council.¹

Having reviewed the modest changes to the three utility plans, TURN is very concerned that the utilities have not complied with this directive and fail to provide either an explanation of their desired TREC volumes or a rationale for how such contracts would promote the development of new renewable facilities. These omissions are stark and should provoke concern at the Commission because there is little information on the likely impact of the desired purchases. Moreover, the consequences of such omissions could be far more significant if the IOUs succeed in their attempts to overturn the reasonable TREC limitations recently adopted by the Commission.

¹ D.10-03-021, Ordering Paragraph 33.

I. THE IOUS DO NOT PROVIDE ANY DATA RELATING TO THEIR CURRENT RELIANCE ON TRECS

None of the IOUs provide any information about the how their approved and submitted TREC transactions compare to the adopted limits in D.10-03-021.

Unlike the relatively data-free updates provided by the IOUs, TURN can offer some details (based on public data) regarding the quantity of TRECs expected to be transferred to IOUs under contracts already approved by, or submitted to, the Commission.

The attached chart (see Appendix A) provides a year-by-year summary for each utility compared to the 25% TREC cap.² As can be seen from this chart, both PG&E and SCE have significant “headroom” under the 25% in the coming years that would allow additional TREC procurement, especially in light of the provision of D.10-03-021 that allows excess TRECs in any year (if associated with new contracts) to be carried forward.

The IOUs should be required to provide further updates to clarify how their TREC purchases compare to the adopted limits. Such updates should show annual TREC volumes from 2010 through 2020 based on the following categories:

- Short-term (<5 year) vs. Long-term contracts
- TRECs procured from within the ISO vs. outside the ISO
- TREC purchases from facilities not yet operational at the time of contract execution vs. facilities already operating at the date of contract execution.

² The chart uses public data and shows expected procurement targets under either SB 722 or the CARB Renewable Electricity Standard.

Without this information, the Commission and active parties will not be able to fairly consider the arguments raised by the IOUs in support of their requests relative to continued TREC procurement. This information must be made publicly available in advance of any further Commission decisions related to TRECs.

II. THE PROPOSALS FOR PRE-APPROVED TRANSACTIONS ARE INTENDED TO ALLOW A FLOOD OF CONTRACTING WITH EXISTING RESOURCES AND SHOULD BE REJECTED

All three IOUs request “pre-approval” of specific volumes of short-term renewable energy contracts including TRECs. The requested volumes vary significantly by IOU and are as follows:

- PG&E proposes 5% of its APT for the next five years (or 1% of retail sales).³ Based on TURN’s calculations, this would amount to over 4,000 GWh.
- SCE proposes a total cost limit based on the assumption of volumes equal to 1% of retail sales for the next five years.⁴ Based on TURN’s calculations, this would amount to over 3,800 GWh.
- SDG&E proposes 1,500 GWh over the next five years (or ~1.7% of 2010 retail sales in each year).⁵

In total, the three IOUs request the authority to procure over 9,000 GWh of renewable power and TRECs without any Commission review or opportunity

³ PG&E 2010 RPS plan update, section 3.1.2.

⁴ SCE 2010 RPS plan update, page 34.

⁵ SDG&E 2010 RPS plan update, pages 12-13.

for parties to protest the value of these purchases so long as they meet certain minimum criteria. What is not clear is whether the IOUs seek the authority to procure this entire amount in any combination of the next five years. TURN is concerned that, if granted this authority, the IOUs could seek to execute all allowed transactions in 2010 and take delivery of the entire pre-approved volume during a short time frame (perhaps 2 years) and thereby boost their effective contribution as a portion of total RPS procurement. In this case, TURN would expect the IOUs to return to the Commission in 2011 seeking additional authority and higher pre-approval limits, which would render the notion of a binding “limit” completely irrelevant.

Another serious omission in the plans is any indication of the fraction of the “net RPS short” to be satisfied by the pre-approved quantities over the relevant time horizon. Such a showing would be important for better evaluating how these transactions fit into the IOUs overall need and whether such approval could crowd out the need for other types of transactions.

The Commission should view the IOUs current request as merely the first in a series of proposals intended to escalate the volumes eligible for pre-approval. This outcome would be very detrimental to ratepayers and would reduce the accountability of IOUs under the RPS program. To the extent that participants like TURN, DRA or other members of the Procurement Review Groups have concerns with any specific transaction, there would be no meaningful opportunity to alert the Commission to potential problems and no recourse if the Commission found these concerns to have merit.

Moreover, the use of short-term contracting is highly unlikely to lead to an increase in the amount of renewable generation in California or the West. To date, the IOUs have used short-term contracting almost exclusively to purchase

output from existing facilities that would operate regardless of the transactions. These transactions have been almost entirely with out-of-ISO projects. The only exceptions have been extensions of QF contracts and purchases from Calpine's Geysers geothermal facility.

Unless a short-term contract is critical to bringing a new facility online, any seemingly incremental energy deliveries from out-of-ISO projects into California would actually come from the increased dispatch of fossil-fueled generation. The net result of such deals would merely be a reshuffling of the deck (or "rearranging the deck chairs") without any tangible incremental benefits to California. The only benefit offered by these transactions is RPS compliance credit for the IOUs that would allow SCE and PG&E to eliminate their cumulative deficits and reduce the risk of shareholder penalties for noncompliance.

The real purpose of these requests is to allow the IOUs to escalate their procurement of TREC products with existing facilities located outside the CAISO. Meanwhile, the IOUs are engaged in a concerted effort to eliminate the TREC limits in D.10-03-021 in order to allow nearly unlimited purchases of REC-like products.⁶ This combination should give the Commission ample reason to reject the current requests.

Based on these concerns, TURN urges the Commission to reject all pre-approval requests by the IOUs in their 2010 plans. There is no demonstration that this authority would yield new renewable generation and ample evidence to suggest that the goal of this procurement is to create the appearance of progress without actually producing meaningful real-world results.

⁶ SDG&E reinforces TURN's concern by identifying the potential for the TREC limits to be changed in the near future. See SDG&E 2010 RPS plan update, page 31.

If the IOUs cannot meet their targets in the absence of these pre-approved amounts, the Commission should consider relieving the penalty obligation rather than encouraging meaningless procurement that only adds to ratepayer costs without yielding any incremental environmental, consumer or other in-state benefits.

III. SCE'S PROPOSAL TO PROCURE TRECS THAT WERE PRODUCED IN 2008 AND 2009 ILLUSTRATES THE FICTION THAT TREC PURCHASES ARE INTENDED TO PROMOTE NEW GENERATION

SCE indicates its intent to procure not only TRECs resulting from new generation but also to consider the purchase of TRECs "with 2008 through 2010 vintages."⁷ In other words, SCE may purchase aged RECs associated with generation occurring up to three years prior to the transaction.⁸ This proposal is extremely troubling because the procurement of aged RECs has no impact on the amount of renewable energy production. Such transactions only serve to allow SCE to accumulate RPS credit without any incremental benefits to ratepayers since any energy, environment, or consumer benefits occurred up to 3 years ago.

Three-year old RECs would have no value in voluntary markets. Under the Green-e certification requirements for voluntary renewable energy products, RECs must be "generated in the calendar year in which the product is sold, the first three months of the following calendar year, or the last six months of the prior calendar year."⁹ The Commission should not allow SCE or the other IOUs to meet their RPS targets by purchasing aged RECs that would otherwise have no value in other compliance or voluntary markets.

⁷ SCE RPS plan update, page 38.

⁸ This could occur if SCE executes a transaction in December of 2010 to procure RECs generated in January of 2008.

⁹ Green-e National Standard Version 1.6, Section III(B).

IV. CONCLUSION

TURN urges the Commission to require additional information from the IOUs and to reject, or seriously modify, the requests for pre-approval.

Respectfully submitted,

 /S/ Matthew Freedman
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Dated: April 23, 2010

VERIFICATION

I, Matthew Freedman, am an attorney of record for THE UTILITY REFORM NETWORK in this proceeding and am authorized to make this verification on the organization's behalf. The statements in the foregoing document are true of my own knowledge, except for those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I am making this verification on TURN's behalf because, as the lead attorney in the proceeding, I have unique personal knowledge of certain facts stated in the foregoing document.

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

Executed on April 27, 2010, at San Francisco, California.

_____/S/_____

Matthew Freedman
Staff Attorney

CERTIFICATE OF SERVICE

I, Larry Wong, certify under penalty of perjury under the laws of the State of California that the following is true and correct:

On April 28, 2010 I served the attached:

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on all eligible parties on the attached lists **R.08-08-009** by sending said document by electronic mail to each of the parties via electronic mail, as reflected on the attached Service List.

Executed this April 28, 2010, at San Francisco, California.

/S/
Larry Wong

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