



FILED

02-16-12

04:59 PM

**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 PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
ON ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON
PROCUREMENT EXPENDITURE LIMITATIONS FOR THE RENEWABLES
PORTFOLIO STANDARD PROGRAM**

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

Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, CA 94105
Telephone: (415) 973-2320
Facsimile: (415) 972-5952
Email: CMMw@pge.com

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

February 16, 2012

**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 PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
ON ADMINISTRATIVE LAW JUDGE’S RULING REQUESTING COMMENTS ON
PROCUREMENT EXPENDITURE LIMITATIONS FOR THE RENEWABLES
PORTFOLIO STANDARD PROGRAM**

In accordance with the Administrative Law Judge’s Ruling Requesting Comments on Procurement Expenditure Limitations for the Renewables Portfolio Standard (“RPS”) Program issued on January 24, 2012 in this proceeding (“Ruling”), Pacific Gas and Electric Company (“PG&E”) provides the following comments on the issues raised in the Ruling.

I. INTRODUCTION AND OVERVIEW

The Ruling requests comments on issues related to the development of a procurement expenditure limitation methodology required by the 33% RPS legislation.^{1/} PG&E believes that the Commission should follow several guiding principles in developing and implementing this methodology.

First, in order to promote regulatory certainty, the limitation should be clear, stable and meaningful. PG&E recommends that the Commission establish a limitation for electrical corporations that applies to the period 2011 through 2020, with one potential revisit and modification in 2015. The costs of all RPS-eligible procurement, including all eligible renewable resource procurement programs and RPS-eligible utility-owned generation, that an

^{1/} Senate Bill 2 (1x) (Simitian), stats. 2011, ch. 1 (“SB 2 (1x)”). For ease of reading, the “procurement expenditure limitation” is sometimes referred to herein as the “limitation” or the “cap.”

electrical corporation uses for RPS compliance should be credited toward the limitation. When an electrical corporation reaches the limitation, the only reasonable reading of SB 2 (1x) requires that the Commission waive the RPS obligations of that electrical corporation, provided that additional resources cannot be procured without exceeding “a de minimis increase in rates.”^{2/} While the Ruling does not seek input as to the meaning of “a de minimis increase in rates,” it is critical that the Commission clearly define this phrase to ensure that electrical corporations understand and can plan for their RPS procurement obligations.

Second, the limitation should be designed and implemented to support procurement planning and decisions and should be easy to administer. Long-term procurement planning requires a clear, stable and meaningful cap. In addition, the limitation should provide electrical corporations with the flexibility to manage procurement to best fit their portfolio needs, and should be compatible with existing bid evaluation and other procurement processes.

Third, cost recovery for approved procurement should not be affected by the development or implementation of the methodology or any subsequent revision thereof. Cost recovery for approved procurement should be left intact, subject to reasonable administration by the electrical corporation.

Fourth, the Commission should not create a set of technology-specific or geographically-defined expenditure limitations. This approach finds no support in SB 2 (1x)’s procurement expenditure limitation provisions, and is contrary to other statutory provisions that contemplate investor-owned utility (“IOU”) discretion to determine the optimal mix of renewable resources. It would also unnecessarily limit commercial flexibility and contravene IOUs’ abilities to implement RPS requirements in ways that are most cost-effective for customers. In addition,

^{2/} See California Public Utilities Code § 399.15(f). All subsequent references to codified sections refer to the California Public Utilities Code.

IOU least-cost, best-fit RPS evaluation methodologies already consider resource diversity. Rather than use carve-outs to promote resource diversity, the Commission should instead consider costs that reflect a reasonable resource balance across the state when establishing the procurement expenditure limitation.

Finally, SB 2 (1x) requires that the Commission must set the procurement expenditure limitation at a level that prevents “disproportionate rate impacts.”^{3/} Because the statute is silent as to the meaning of “disproportionate rate impacts,” the Commission must define this term in order to develop the limitation methodology and adopt a limitation.

With these guiding principles in mind, PG&E provides responses to each of the Ruling’s questions in Section II below. PG&E has endeavored to be as specific and precise as possible in its responses, as requested in the Ruling. However, certain questions were difficult to answer without reference to a specific procurement expenditure limitation methodology. Further, PG&E’s responses could change depending on the methodology that is ultimately proposed.

II. PG&E’S RESPONSES TO RULING QUESTIONS

1. Section 399.15(c) provides that a procurement expenditure limitation must be established “for each electrical corporation.”^{4/} How should the procurement expenditure limitation methodology reflect this instruction?

- Should the methodology be the same for all IOUs in all respects?
- Should the inputs to the methodology be specific to each IOU?
- Should both the methodology and the inputs be IOU-specific?
- Should some other relationship between methodology and IOU be established? Please specify and explain any proposal.

^{3/} Section 399.15(d)(1).

^{4/} Section 399.17(f) directs that multi-jurisdictional utilities or successor entities, as defined by Section 399.17(a), shall be subject to this procurement expenditure limitation.

PG&E’s Response:

To maximize transparency and ease of oversight and implementation, the methodology should be the same for all IOUs. The methodology should, however, provide the IOUs flexibility to procure eligible renewable resources in a manner that best fits their portfolio needs, and should be consistent with each IOU’s processes for making RPS procurement decisions. The inputs to the methodology could differ between IOUs, depending on the chosen methodology. For example, IOU-specific discount rates could be used for methodologies that require future procurement costs be discounted to present value terms.

2. Section 399.15(c)(2) provides that “the costs of all procurement credited toward achieving the renewables portfolio standard” should count towards the procurement expenditure limitation.

- Please identify the types of procurement that should be included in this requirement and identify any special rules or methods that may be required to account for the costs. Please consider at a minimum the following situations:
 - Procurement from RPS-eligible qualifying facilities under the federal Public Utility Regulatory Policies Act of 1978 (Public law 95-617);
 - Procurement pursuant to the renewable auction mechanism established by D.10-12-048;
 - Procurement pursuant to the feed-in tariff program established by SB 32 (Negrete McLeod), Stats. 2009, ch. 328;
 - Procurement from bilaterally negotiated contracts, not part of a utility solicitation for RPS-eligible generation resources;
 - Procurement by means of utility-owned generation.

PG&E’s Response:

As Question 2 recognizes, Section 399.15(d)(2) requires that “[t]he costs of *all* procurement credited toward achieving the renewables portfolio standard” must be counted toward the procurement expenditure limitation (emphasis added). Therefore, the costs of any RPS-eligible procurement, whether procured by contract or through utility-owned generation

(including small hydroelectric resources),^{5/} that an IOU uses for RPS compliance should be credited against the limitation. This includes the above-listed procurement, and any RPS-eligible procurement resulting from an IOU's competitive solicitations (RPS or otherwise) or from any Commission-approved or mandated RPS procurement program (e.g., PG&E's solar photovoltaic program, the Renewable Auction Mechanism, and AB 1969 and SB 32 Feed-in-Tariff programs). To the extent the California Energy Commission ("CEC") approves additional resources as RPS-eligible or new mandated RPS procurement programs are introduced, the procurement costs for those resources and from those programs should also be credited toward the cap.

As discussed below, PG&E proposes that procurement costs be used for power purchase agreements ("PPAs") and that levelized-cost-of-energy ("LCOE") data be used for utility-owned generation that counts against the cost limitation. Rules and methods for calculating and accounting for costs of both of these categories of procurement are established and no additional "special" rules or methods are needed.

- Please identify all "costs" that are implicated by this requirement, taking into account those costs that are excluded by Section 399.15(d)(3).

PG&E's Response:

Section 399.15(d)(3) provides that "indirect expenses" may not be credited against the limitation. Therefore, with respect to PPAs, PG&E believes that the contracted for cost of the purchased product is the most appropriate direct expense to count against the cap. The Commission's rules for confidentiality of procurement data set forth in D.06-06-066 and D.08-04-023 should continue to apply to the costs of individual RPS PPAs. The costs of utility-owned

^{5/} Section 399.12 defines "procure" as "acquir[ing] through ownership or contract."

generation should be captured and credited against the limitation through use of a levelized cost of energy equivalent.

- Should the statutory characterization of “the costs of all procurement credited toward achieving the renewables portfolio standard” be interpreted as including:
 - Estimates, made at the time a procurement contract is approved by the Commission, of the costs that will be incurred over a period of time.
 - should the period of time be the entire period of the contract?
 - should it be some other time period? Please describe and justify the choice of another period; or
 - A record of actual expenditures by the utility for the procurement contract over a period of time.
 - should the period of time be the entire period of the contract?
 - should it be some other time period? Please describe and justify the choice of another period.
 - how should the actual expenditures be determined?

PG&E’s Response:

PG&E recommends that procurement costs be credited toward the limitation using a combination of estimated and actual costs. There is often a delay between execution of an RPS PPA and the start of deliveries, and actual costs are not incurred until deliveries begin. Therefore, estimates of costs to be incurred made at the time of Commission approval must be used if the limitation is to serve as an effective procurement planning tool and a meaningful measure of RPS program costs. In addition, to the extent the limitation is used during the bid evaluation process, estimates of the bid’s procurement costs at the time of bid evaluation must be used to evaluate the potential procurement’s impact on the limitation. These estimates could later be adjusted to reflect the final contract price.

PG&E recommends that estimated costs be trued up with actual costs on an annual basis. This annual true-up would not change the limitation, but would change the costs credited toward the limitation where estimated costs differ from actual expenditures. Estimated costs could also be updated during the annual true-up to the extent necessary. The annual true-up should be appropriately timed to inform procurement decisions in the IOUs' next RPS solicitation cycles.

For RPS PPAs, actual costs can be determined using settlements data. For utility-owned generation projects, actual costs can be determined using PG&E's recorded financial data at the project level.

PG&E believes that the costs of procurement from 2011 forward should be credited toward the limitation. For RPS PPAs, the costs incurred from 2011 through the remaining term of the contract should count against the cap, including those incurred after 2020, and for utility-owned generation, the costs incurred from 2011 through the expected life of the asset should count against the cap. The Commission should follow this approach independent of the chosen methodology, as it reflects costs that customers will incur for the RPS program. For example, if the Commission adopts PG&E's recommendation to establish a limitation that covers the period 2011 through 2020, post-2020 procurement costs resulting from procurement activity during the 2011-2020 period should also be considered when evaluating the procurement's impact on the cost cap.

- How should RPS procurement costs incurred prior to the implementation of the procurement expenditure limitation required by SB 2 (1X) be addressed in the procurement expenditure limitation methodology?

PG&E's Response:

The Commission should review and consider actual RPS procurement costs incurred prior to 2011 when determining the overall impact of the RPS program on customers and when setting the limitation required by SB 2 (1x). These costs will inform the Commission of the total

cost of the RPS program and may assist in determining the appropriate limitation for 2011 onward in terms of total impact on customers. However, for ease of administration, only estimated and actual costs from 2011 onward should count against the limitation. In other words, for pre-2011 procurement, only those costs associated with deliveries beginning in 2011 or later should be credited towards the cap.

- How should the costs of procurement from utility-owned generation be addressed in the procurement expenditure limitation methodology? Please discuss any issues not addressed in response to other questions.

PG&E's Response:

Please see PG&E's response to the second bullet under Question 2 above for how the costs of procurement from utility-owned generation should be credited against the procurement expenditure limitation, and PG&E's response to Question 7 below for how utility-owned generation costs should be used to develop the limitation.

3. Should the procurement expenditure limitation methodology provide a single limitation for the time period 2011-2020?

PG&E's Response:

Yes. PG&E recommends that the Commission establish a limitation for each electrical corporation that applies to the period 2011 through 2020. The Commission should then revisit the limitation in 2015, when it considers whether each electrical corporation can achieve and maintain 33% within the adopted cost limitations in preparation for its January 1, 2016 report to the Legislature required by Section 399.15(e)(1). The Commission could then modify the cap if it determines that a modification is necessary to reflect changed market conditions. If the Commission modifies the cap, it should make clear that cost recovery for approved procurement will not be impacted by such modification (subject to reasonable administration). The

Commission should also consider during the 2015 revisit how best to incorporate post-2020 procurement into the limitation methodology.

A single limitation for the period 2011-2020 promotes regulatory certainty through a stable cap on which the IOUs can rely for procurement planning and decisions. Revisiting and potentially modifying the cap in 2015 is also consistent with Section 399.15(e)(1), which contemplates only one potential revision of the cap that would take effect no earlier than January 1, 2017. PG&E does not believe that annual or compliance period caps sufficiently recognize the multi-year timeline that accompanies the development and construction of a renewable project. A single limitation allows flexibility to procure least cost and best fit resources and prevents potential complications from costs associated with projects that begin delivering at the end (or beginning) of a compliance period. In addition, frequent revisions of the cap could result in complexities in administering the cap and evaluating potential transactions.

4. Should the procurement expenditure limitation methodology provide a limitation for a different time period or set of time periods?

- Annual.
- Each compliance period through 2020 (i.e. 2011-2013; 2014-2016; 2017-2020).
- The period 2011-2015 and the period 2016-2020.^{6/}
- The year 2020.
- The entire time an RPS procurement obligation has been in place (i.e., beginning in 2003).
- Some other time period. Please specify and explain the reasons for the time period proposed.

PG&E's Response:

Please see PG&E's response to Question 3.

^{6/} See Section 399.15(e)(1).

5. Since RPS procurement obligations continue indefinitely, how should the procurement expenditure limitation methodology treat RPS procurement in the years after 2020?^{7/}

PG&E's Response:

PG&E believes that the Commission should consider how best to incorporate post-2020 procurement into the limitation methodology when it revisits the limitation in 2015, as proposed in response to Question 3. PG&E recognizes that developing a limitation for an ongoing 33% procurement obligation could require different and additional considerations or even a different limitation methodology. Revisiting this issue in 2015, when the 33% RPS program has been in place for several years, may provide additional insight as to the appropriate limitation methodology for post-2020 procurement.

6. Section 399.15(c)(1) provides that, in establishing the procurement expenditure limitation, the Commission shall rely on, among other things, “the most recent renewable energy procurement plan.”

- What elements of an IOU's RPS procurement plan should be used in establishing the procurement expenditure limitation methodology?
- Should the methodology include a mechanism for updating the limitation with information from the IOU's most recent RPS procurement plan?
- Should the methodology use information from the most recent RPS procurement plan available at the time the Commission adopts the methodology, but not provide for periodic updates from more recent RPS procurement plans?

PG&E's Response:

The IOUs' RPS procurement plans identify the amount of RPS procurement each IOU intends to do. The Commission should review these levels of planned procurement when establishing the limitation methodology, as they could inform the level at which the cap should be set. However, other elements of the RPS procurement plans should not be used. For

^{7/} There is a procurement quantity requirement of 33% of total retail sales in each year from 2021 onward. See Section 399.15(b)(2)(B) and D.11-12-020.

example, use of the least-cost best-fit (“LCBF”) protocols, which detail how bids are evaluated, are limited by the differences in protocols across IOUs, by the confidential nature of some elements of the protocols, and by the fact that these protocols may consider costs that the cost limitation may not consider under Section 399.15(d)(3).

To the extent the Commission uses information from RPS procurement plans, it should use information from the most recent RPS procurement plans available when it first adopts the methodology, but it should not update the limitation to reflect information contained in each subsequent procurement plan. If the Commission revisits the limitation in 2015, as PG&E has proposed, it could consider the then-available RPS procurement plans in determining whether or not to revise the cap. More frequent revisions of the cap are not consistent with Section 399.15(e)(1), would erode regulatory certainty, would be counter to use of the cap as a long-term procurement planning tool, and could cause administrative complexities.

7. Section 399.15(c)(2) provides that, in establishing the procurement expenditure limitation, the Commission shall rely on, among other things, “procurement expenditures that approximate the expected cost of building, owning, and operating eligible renewable energy resources.”

- What sources of data should be used to develop this approximation? Please provide specific examples.
- Should the methodology differentiate between utility-owned RPS-eligible generation and RPS-eligible generation owned by independent power producers? If so, what information or parameters should differ between the two types?
- Should only publicly available data be used to develop this approximation? Please identify and explain any limitations of publicly available data for this purpose.

PG&E’s Response:

PG&E believes that the Commission should use publicly available data to develop this approximation, and should not differentiate between utility-owned and independent power producer-owned generation. Multiple data sources exist. For example, one source that the

Commission has used in the past is the Energy and Environmental Economics, Inc (“E3”) 33% RPS Calculator.^{8/} Any public data that is used should be updated to reflect current market conditions, especially those regarding key cost drivers for renewable energy. For example, the E3 33% RPS Calculator was developed in 2010 as part of the 2010 Long Term Procurement Plan proceeding in R.10-05-006 and was updated in February 2011. The 33% RPS Calculator reflects procurement decisions by the IOUs as of June 1, 2010 and estimated costs of generic resources at that time to achieve 33% RPS under a variety of scenarios. The E3 calculator may need to be updated to consider tax credit, technological improvements, permitting costs, and other factors that have changed since the model was developed in 2010.

8. Section 399.15(c)(3) provides that, in establishing the procurement expenditure limitation, the Commission shall rely on, among other things, “the potential that some planned resource additions may be delayed or canceled.” How should the methodology take such potential into account?

- How should the methodology define a “delay”? A “cancellation”? Please discuss usual commercial practice and provide examples in support of the proposed definition. Please provide examples of how a delay could be distinguished from a cancellation for purposes of the procurement expenditure methodology.
- Should delays in the progress of contracted-for RPS resources be treated differently from cancellations?
- Should the methodology use data on the historical record of delays/cancellation of RPS procurement contracts for each IOU?
- Should the methodology use each IOU’s projections of likely delays/cancellations in the future?
- Should the methodology create projections of delays/cancellations of contracted-for RPS generation projects in some other way? Please describe the proposal in detail.

^{8/} See <http://www.cpuc.ca.gov/PUC/energy/Procurement/LTPP/LTPP2010/2010+LTPP+Tools+and+Spreadsheet.shtm>. E3’s 33% RPS Calculator uses inputs from California’s Renewable Energy Transmission Initiative, the California Independent System Operator, the U.S. Army Corps of Engineers, and others to develop capital and operations and maintenance costs of renewable energy technologies. Additional information about this calculator may be found in the “33% RPS Implementation Analysis” section of <http://www.cpuc.ca.gov/PUC/energy/Renewables/hot/33implementation.htm>.

- How should the potential for delays/cancellations, however determined, be used in the procurement expenditure limitation methodology?

PG&E's Response:

With respect to renewable energy procured through PPAs, a delay should be defined as when a project fails to achieve a guaranteed milestone identified in the PPA or such failure is reasonably expected by the contracting utility, or when an original guaranteed milestone is extended or amended by the seller and the utility. A project should be considered delayed until a party terminates the PPA due to a failure to achieve a project milestone. Once a party terminates the PPA, the project should be considered cancelled.

Delays and cancellations could be used in the procurement expenditure limitation methodology in two ways. First, the potential for delays and cancellations could be used to inform development of a reasonable level of over-procurement designed to mitigate the risk of delays and cancellations. The potential for delays and cancellations could in turn inform development of the cost cap. However, historical records of delays and cancellations under the RPS program may or may not be predictive of future delays and cancellations. As the renewable energy market develops, IOUs may experience higher project success rates, resulting from factors including (i) developers' successful navigation of permitting, transmission and interconnection processes; (ii) improved coordination and execution from permitting agencies; and (iii) access to financing and incentive programs. Accordingly, the Commission should use projections of likely delays and cancellations in the future. Such projections should reflect that the development of renewable projects is complex, uncertain, and involves certain risks.

Second, actual delays and cancellations could be considered in how costs are credited toward or subtracted from the limitation. Whether delays and cancellations are considered and whether they are treated differently ultimately depends on the chosen methodology. For

example, if the limitation allowed expenditure of a total dollar amount, costs associated with cancelled projects would be subtracted from the total costs credited against the limitation. Costs associated with delayed projects would continue to count against the cap as such costs would still be incurred, only at a later date.

9. Taking into account your responses to questions 3-8, above, how often should the procurement expenditure limitation be calculated for the years through 2020, using the methodology and inputs that the Commission will adopt?

- Annually.
- At the beginning of each compliance period (i.e. 2011-2013; 2014-2016; 2017-2020).
- Once for the period 2011-2015 and once for the period 2016-2020.10
- Once for the period 2011-2020.
- Once for the year 2020.
- Once for the entire time an RPS procurement obligation has been in place (i.e., beginning in 2003).
- Some other time period. Please specify and explain the reasons for the time period proposed.

PG&E's Response:

Please see PG&E's response to Question 3.

10. How often should the procurement expenditure limitation be calculated for the years after 2020, using the methodology and inputs that the Commission will adopt?

PG&E's Response:

Please see PG&E's response to Question 5.

11. Section 399.13(a)(4)(D) requires the Commission to adopt “[a]n appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to mitigate the risk that renewable projects planned or under contract are delayed or canceled.”

- How should such a margin of above-minimum procurement be addressed in the procurement expenditure limitation methodology?
- How should the methodology treat the interaction of the margin of above-minimum procurement and the potential for delays and/or cancellations?

PG&E’s Response:

The procurement expenditure limitation methodology should consider that the IOUs may over-procure to achieve RPS compliance in light of the complexity and uncertainty inherent in renewables development. It is difficult to propose how a minimum margin of over-procurement should be incorporated into the limitation without reference to a specific methodology. As PG&E noted in its response to Question 8, a projection for likely future delays and cancellations could be used to inform development of a reasonable level of over-procurement.

12. Section 399.13(a)(4)(A) requires the Commission to adopt “criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources...on a total cost basis...,” taking various factors into account.

- Should the procurement expenditure limitation methodology incorporate the “total cost basis” factors set out in Section 399.13(a)(4)(A). If so, how?
- Should the procurement expenditure limitation methodology be used as the criterion of “least-cost” for the least-cost best-fit determination? If so, how?

PG&E’s Response:

Section 399.13(a)(4)(A) requires that the least-cost best-fit process take into account estimates of indirect costs associated with necessary transmission investments and expenses resulting from the integration and operation of RPS-eligible resources. Under Section 399.15(d)(3), the Commission must ensure that procurement expenditures used to establish the limitation and credited against the limitation do not include “indirect expenses.” Section

399.15(d)(3) does not, therefore, appear to allow incorporation of the indirect costs identified in Section 399.13(a)(4)(A) in the procurement expenditure limitation methodology. Since the procurement expenditure limitation methodology cannot incorporate the indirect costs explicitly identified in Section 399.13(a)(4)(A) to be used in the least-cost best-fit determination, it cannot be used as the criterion of “least cost” for this determination. Further, as noted in response to Question 1 above, the methodology should provide IOUs with the flexibility to manage RPS procurement to best fit their portfolio needs.

13. Should the procurement expenditure limitation methodology take into consideration the value of diversification of resources in IOUs’ RPS procurement? Specifically,

- Should the methodology create a set of technology-specific expenditure limitations?
- Should the methodology create a set of geographically-defined expenditure limitations?
- Should the methodology give “extra credit” for diversification by technology?
- Should the methodology give “extra credit” for geographic diversification?

PG&E’s Response:

No. The methodology should not create a set of technology-specific or geographically-defined expenditure limitations, nor should it give “extra credit” for diversification by technology or geography. The statute does not support technology or geography-specific limitations. It explicitly directs the Commission to establish a limitation on procurement expenditures for *all* eligible renewable energy resources used for RPS compliance,^{9/} not for specific technologies or locations. There is nothing in the statute that implies that the Legislature contemplated technology or geography-specific caps. Moreover, technology or geography specific carve-outs are contrary to other provisions in SB 2 (1x) that contemplate IOU discretion

^{9/} Section 399.15(c).

to determine the optimal mix of renewable resources,^{10/} and to Commission precedent opposing carve-out-like mechanisms.^{11/}

While resource diversity is an important goal, IOU procurement activities already consider resource diversity.^{12/} The use of technology or geography-specific carve-outs for the purpose of resource diversity would unnecessarily limit commercial flexibility and, by definition, is likely to lead to higher costs for customers. The better way to address resource diversity in the context of a procurement expenditure limitation is to consider costs that reflect a reasonable resource balance across the state when setting the cap. This will help ensure a diverse mix of RPS resources in California without the detrimental impacts resulting from carve-outs.

14. How should the procurement expenditure limitation be applied to the Commission’s evaluation of individual RPS contracts?

- The methodology should include a way to calculate a benchmark limit on the price of RPS procurement contracts (in dollars per megawatt-hour of generation) of a particular duration and technology type.
- The methodology should include a way to consider an individual RPS procurement contract, on a total expected cost basis, as a fraction of some larger procurement expenditure limitation.
- The methodology should use some other way to consider an individual RPS procurement contract in the context of the procurement expenditure limitation. Please provide a detailed explanation.
- The methodology should not be applied to individual RPS procurement contracts at all.

^{10/} See Section 399.13(a)(5)(A) (providing that IOUs should, in their renewable energy procurement plans, assess supplies and demand “to determine the optimal mix of eligible renewable energy resources” with various deliverability characteristics).

^{11/} See D.06-05-039 at 38-40 (opposing the use of resource stacks and supporting “renewable resource neutral” renewable procurement plans, protocols, and requests for offers).

^{12/} See e.g., PG&E’s 2011 RPS Solicitation Protocol, Attachment K, which can be found at http://www.pge.com/includes/docs/word_xls/b2b/wholesaleelectricssuppliersolicitation/RPS2011/Attachment_K_LCBF_06102011.doc.

PG&E's Response:

The Commission should apply the procurement expenditure limitation methodology to the evaluation of individual RPS procurement contracts. The methodology should allow the Commission to consider how the costs of the proposed contract count against the adopted limitation to inform the Commission's determination of whether to approve or reject the procurement. Consistent with its response to Question 13, PG&E does not believe the Commission should create any technology-specific price benchmark limits.

15. Should the procurement expenditure limitation methodology include a methodology by which Energy Division staff could “monitor the status of the cost limitation for each electrical corporation,” as required by Section 399.15(g)(1)?

- What elements would be required in order to monitor the status of the cost limitation for each IOU?
- How often should the status of the cost limitation for each IOU be examined?
 - Annually;
 - Once per compliance period;
 - Once before January 1, 2016;
 - Once before January 1, 2016 and again before December 31, 2020;
 - Once before December 31, 2020;
 - At the discretion of the Director of Energy Division;
 - Some other time interval.

PG&E's Response:

PG&E proposes that the Energy Division monitor the status of the cost limitation for each IOU in two ways. First, in each advice letter or application seeking approval of an RPS contract or utility-owned generation project, the IOU should include the status of the cost limitation and how the costs of the proposed contract or project count against the limitation. Second, each IOU

should report annually to Energy Division regarding the status of its cost limitation, and include a true-up of estimated costs with available actual costs.

In addition to establishing a process for monitoring the status of the cost limitation, the Commission must also adopt rules that address what happens when an IOU reaches its limitation. Section 399.15(f) provides that if an IOU's cost limitation is "insufficient to support the projected costs of meeting the [RPS] procurement requirements," the IOU "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." If an IOU reaches its cap and the Commission determines that the IOU cannot continue to procure above the cap without exceeding a de minimis increase in rates, then the Commission must waive enforcement of that IOU's RPS obligations. There is no other reasonable reading of Section 399.15(f). In adopting a procurement expenditure limitation methodology, the Commission should therefore make clear that it will waive the RPS obligations of any IOU that reaches its cost limitation and cannot procure additional resources without exceeding a de minimis increase in rates. The Commission must also clearly define what constitutes "a de minimis increase in rates" to ensure that IOUs understand and can plan for their RPS procurement obligations.

//

//

//

III. CONCLUSION

PG&E appreciates the opportunity to comment on the development of a procurement expenditure limitation methodology for the 33% RPS program and looks forward to working with the Commission and other stakeholders on this issue.

Respectfully submitted,

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

By: /s/ Cory M. Mason
CORY M. MASON

Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, CA 94105
Telephone: (415) 973-2320
Facsimile: (415) 972-5952
Email: CMMw@pge.com

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

Dated: February 16, 2012

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 “Comments of Pacific Gas and Electric Company (U 39 E) on Administrative Law Judge’s Ruling Requesting Comments on Procurement Expenditure Limitations for the Renewables Portfolio Standard Program,” dated February 16, 2012. 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 16th day of February, 2012 at San Francisco, California.

/s/ Brooke Reilly

Brooke Reilly
Manager, Renewable Energy Policy and Strategy
Pacific Gas and Electric Company