



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE **FILED**

STATE OF CALIFORNIA

06-07-12

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

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Rulemaking 11-05-005  
(Filed May 5, 2011)

**NOTICE OF *EX PARTE* COMMUNICATION OF  
SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)**

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Dated: June 7, 2012

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**NOTICE OF EX PARTE COMMUNICATION OF  
SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)**

Pursuant to Rule 8.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Southern California Edison Company (“SCE”) hereby gives notice of the following *ex parte* communication.

On Wednesday, June 6, 2012, at approximately 2:30 p.m., Laura Genao, SCE’s Director of Regulatory Affairs, met with Rahmon Momoh, Advisor to Commissioner Simon, at the Commission’s Offices at 505 Van Ness Ave., San Francisco, CA, 94102. The meeting lasted approximately 15 minutes and was initiated by SCE.

Ms. Genao urged the Commission to adopt the Proposed Decision Setting Compliance Rules for the Renewables Portfolio Standard Program (“PD”) at its June 7 meeting as written with a few minor changes. Ms. Genao stated that the PD appropriately implements Senate Bill 2 (1x) in a way that protects customers, gives value to previously signed contracts, and provides certainty to the market. She also stated that any changes to the PD’s provisions on the bankability of contracts executed prior to June 1, 2010 and the 36-month retirement period for renewable energy credits would reduce retail sellers’ ability to optimize their portfolios and possibly require the procurement of additional resources at increased cost to customers, contrary to the Legislature’s intent.

Ms. Genao provided Mr. Momoh with the attached document.

To receive a copy of this *ex parte* notice, please contact:

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Respectfully submitted,

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/s/ Cathy A. Karlstad

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**Attachment**

## **SCE's Position on Proposed Decision Setting Compliance Rules for the RPS Program**

- **A broad range of stakeholders generally support the PD's fair and straightforward RPS compliance rules; thus, the Commission should adopt the PD with only minor revisions**
- **Safe Harbor**
  - PD appropriately recognizes that safe harbor provision eliminates all deficits from the 20% program for retail sellers who procured at least 14% renewables in 2010
    - Consistent with plain language of statute and clear legislative intent
    - Avoids unnecessary costs to customers
    - Establishes a clean break between the two RPS programs, and supports an administratively simple program going forward based on a single set of rules
    - Widespread support among the parties for the PD on this issue
  - Only GPI claims that retail sellers who procured 14% renewables in 2010 should still have to make up those shortfalls or potentially face penalties
    - GPI's mistaken reading of safe harbor provision would render it meaningless in violation of basic principles of statutory construction
- **Grandfathered Contracts Signed Prior to June 1, 2010**
  - PD correctly determines grandfathered contracts can be counted as excess procurement and banked without limitation and are not subject to portfolio content categories or new short-term contracting requirements
    - Gives meaning to every word of statute by concluding that Section 399.16(d)'s application is not limited to portfolio content categories
    - Preserves value of existing investments and early action taken by customers
    - Fosters market certainty
    - Broad support from the parties
  - TURN/CUE's interpretation of Section 399.16(d) would make it superfluous since the portfolio content categories are already limited to contracts signed after June 1, 2010
    - Additionally, grandfathered contracts do not "count in full" if they are not bankable; TURN/CUE would substantially diminish the value of resources customers are already paying for based on the RPS rules in effect at that time
- **36-Month Period to Retire RECs**
  - PD properly gives retail sellers the full 36 months to retire RECs and rejects arguments that RECs must be retired in the same compliance period they were generated and/or acquired
    - Follows express language of statute and avoids establishing a variable time limit on the retirement of RECs depending on when they are generated or acquired
    - Is consistent with the Legislature's rejection of a requirement that RECs must be claimed in the same compliance period they were generated in SB 722
    - Provides retail sellers with reasonable flexibility to sell/trade RECs when it is in their customers' best interest
  - Parties incorrectly conflate banking rules with those for REC-retirement; only after RECs are retired do they become subject to any restrictions on excess procurement/banking

- **SCE recommends three minor revisions to the PD**
  - 1. Retail sellers should be able to carry over excess long-term contract credit between compliance periods**
    - Avoids over-procurement and reduces costs to customers
    - Provides an incentive to enter into long-term contracts early in the program
  - 2. Annual compliance reports should be due at least 30 days after the CEC's deadline**
    - Allows sufficient time to prepare reports after CEC reports are due and ensures that most accurate data is reported to the Commission
  - 3. Clarify rules regarding amendments to grandfathered contracts**
    - Correct Ordering Paragraph 10 and Conclusion of Law 11
    - Clarify that only incremental increases in nameplate capacity or expected annual generation as a result of amendments executed after June 1, 2010 lose grandfathered status