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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 06-05-027
(Filed May 25, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING
ADOPTING STANDARDIZED REPORTING FORMAT,
SETTING SCHEDULE FOR FILING UPDATED REPORTS
AND ADDRESSING SUBSEQUENT PROCESS**

1. Summary

This ruling adopts the November 22, 2006 consensus proposal of Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Pacific Gas and Electric Company (PG&E) for a standardized renewables portfolio standard (RPS) compliance report, subject to the modifications adopted in this ruling and in Appendix A. Energy Division (ED) will modify the spreadsheet consistent with the directions herein, and make the spreadsheet available to each respondent and party. Each RPS-obligated load serving entity (LSE) shall use this spreadsheet for subsequent reports, including all other information and data necessary to make a full and complete report to the Commission.

The resolution of issues is relatively thorough given the number of issues and level of detail presented by parties. This is also true for the adopted administrative process. The goal is to resolve issues and provide process in a

reasonably complete way in order to establish a clear and efficient foundation for these reports and their consideration both now and over time.

Changes to the reporting format and process will likely be necessary as the RPS Program continues to develop and evolve. As a result, procedures for those changes are discussed herein, and a protocol adopted consistent with current Commission practice. ED will provide updated reporting formats as and when appropriate consistent with the adopted protocol, and parties may seek changes in reports and process as provided herein.

Finally, reports will be filed on results for 2004 and subsequent years, along with comments, reply comments, motions and responses, using the schedule adopted herein.

2. Background

The California RPS Program (established by Senate Bill (SB) 1078, effective January 1, 2003, as modified by SB 107, effective January 1, 2007) sets annual goals for the procurement of electricity generated by renewable resources. To measure compliance with these goals, certain RPS-obligated LSEs must periodically report RPS targets and results.

On October 19, 2006, the Commission adopted a revised reporting metric and framework. (Decision (D.) 06-10-050.) On November 22, 2006, SCE applied for rehearing of D.06-05-010. Among other things, SCE seeks rehearing of the definition used to determine the 2003 initial baseline procurement amount. On December 7, 2006, responses to SCE's application for rehearing were filed by The Utility Reform Network (TURN) and the Alliance for Retail Energy Markets (AReM). On December 22, 2006, SCE filed a motion for leave to file a reply, along with its reply comments.

The Commission's October 19, 2006 reporting decision directed that the three largest investor-owned utilities (IOUs) develop a draft compliance report, doing this work in collaboration with the staff of the Commission, the staff of the California Energy Commission (CEC), and others who wished to participate. (*Id.*, Ordering Paragraph (OP) 4.) On November 22, 2006, the three IOUs filed a consensus proposal for a standardized RPS compliance report. On November 29, 2006, ED facilitated a workshop to discuss the consensus proposal.

On December 13, 2006, comments on the reporting format were filed by AReM, the Green Power Institute (GPI), PacifiCorp, Sierra Pacific Power Company (Sierra), and Mountain Utilities (MU). On or about December 20, 2006, reply comments were filed by PacifiCorp, SDG&E, SCE and PG&E.

The Commission directed that the Administrative Law Judge (ALJ) "shall by ruling file and serve a final, standardized report to be used by each RPS-obligated LSE." (*Id.*) The Commission also directed that the ALJ may issue a ruling to set a date for all applicable LSEs to file and serve updated compliance reports. (*Id.*, p. 50 and OP 5.)

On February 20, 2007, an assigned Commissioner's Ruling extended the date for the 2006 compliance report otherwise due by March 1, 2007. The new filing date is within 15 days after the Commission mails its decision on the November 22, 2006 SCE application for rehearing of D.06-10-050.

3. Report Format

No party recommends rejection of the consensus proposal. Rather, comments and reply comments address ways to improve the reporting format and its use. The consensus proposal is adopted, subject to the modifications discussed and decided in Appendix A.

4. Energy Division Will Prepare Final Spreadsheet

ED will, as soon as practical, prepare a final spreadsheet consistent with the decisions in this ruling and Appendix A. ED will make the final spreadsheet available to respondents, parties and interested persons in a reasonably convenient and accessible way.¹ ED will also be reasonably available to answer questions (by telephone, electronic mail, or other form) regarding the spreadsheet.

5. LSE Compliance Reports

Each LSE shall use the adopted reporting format for RPS compliance reports (e.g., due each year by March 1, August 1, plus updates as needed May 1, and within 30 days of the date the CEC adopts the applicable Verification Report).² (*Id.*, OP 3.) Moreover:

“In addition to the report in the standardized format, an LSE may submit another, separate report in another format or with other information to the extent it believes another format or other information is necessary to fully and accurately describe its particular situation.” (*Id.*, pp. 49-50.)

That is, the LSE is obligated in all cases to present a full and complete report. On this point, the Commission said:

¹ This might be, for example, by serving: (a) a blank form, (b) an electronic disk containing the spreadsheet, (c) an electronic mail message with the spreadsheet attached, (d) an electronic mail message with a link to a Commission web-site containing the spreadsheet, or (e) necessary information and forms in any other way at Energy Division’s discretion that is efficient for Energy Division, respondents and parties.

² The report otherwise due by March 1, 2007 is an exception. That report is due within 15 days of the date the Commission mails its decision on the application for rehearing of D.06-10-050. (February 20, 2007 Assigned Commissioner’s Ruling.)

“Finally, the report must state anything else an LSE believes is necessary for a full and complete reporting to the Commission in order to allow an informed decision on compliance.” (*Id.*, p. 48.)

This may include, for example, footnotes, attachments, references, proposed testimony or other explanatory information as necessary and reasonable to fully and accurately describe any unique or particular situation.

6. Future Changes to Reporting Format

Parties are unanimous in recommending that flexibility be preserved for future changes. This flexibility is already provided by the Commission, as explained below. Further guidance is also provided below.

6.1. Initiated by Energy Division

ED has ongoing Commission-related responsibility for RPS program administration and implementation, even after this and successor RPS proceedings are closed. In this administrative role, the Commission expects ED to make changes to the reporting format over time to keep the format current and accurate.

These changes are largely expected to be ministerial. This might be, for example, to include a new category of RPS resource type when known and reasonable to include (e.g., wave/ocean) rather than lumping multiple other resources in the “other” category. It might be to modify the format based on subsequent Commission decision or new law (e.g., a possible change in the 2003 initial baseline procurement amount based on SCE’s application for rehearing of D.06-10-050).

ED should make such changes in consultation with CEC staff and parties to the fullest extent necessary, reasonable and feasible, consistent with providing due process. For example, ED might serve a proposed change for comment and

reply comment, and may hold a workshop, if necessary, before adopting the change. If an LSE disagrees with the result specified by ED, the LSE may file a motion in R.06-05-027 or related subsequent proceeding. If there is no open proceeding, the LSE may submit a request for consideration to the Executive Director, or use any other vehicle to bring the matter to the Commission's attention as provided in the Commission's Rules of Practice and Procedure (Rules) or the Public Utilities Code. Finally, consistent with the LSE's duty to provide full and complete reports, the LSE may file two reports (one in the standardized format specified by ED and one in the LSE's own format, with explanation).

As part of existing Commission practice, ED is the Commission's "gatekeeper." This includes, for example, screening and separating out contracts submitted by advice letter that require greater Commission attention. (See D.07-02-011, p. 49.) ED has the same role here relative to changes in the reporting format. That is, ED should process changes to the reporting format to the fullest extent feasible and reasonable, but should seek further procedural treatment of matters that require the involvement of the ALJ Division or Commissioners.

6.2. Initiated by a Party

The Commission delegated determination of the final, standardized reporting format to the ALJ, with the format to be adopted by ALJ ruling. (D.06-10-050, OP 4.) In that context, the ALJ may also consider changes. For example, parties may propose changes by written motion to amend or modify this, or subsequent, ruling. Parties may similarly move for any reasonable relief in this or other related proceeding. (Rule 11.1.) This practice should apply as long as this, or a related successor, RPS proceeding is open. If necessary or

appropriate, parties may also use other procedural vehicles reasonably provided in the Commission's Rules (e.g., petition for modification of a Commission decision).

When this or a related RPS successor proceeding is closed, the Commission has provided that changes may be made by request to the Executive Director. (*Id.*, OP 4.) Parties may determine the appropriate vehicle for that request at the time (e.g., letter to the Executive Director), or may use another procedural vehicle, as appropriate, depending upon the nature of the request (e.g., motion, petition for modification, other pleading).

7. Schedule

7.1. Calendar Years 2004 and 2005

The Commission directed that the ALJ issue a ruling as soon as the standardized reporting format is determined setting a date for all applicable LSEs to file and serve updated compliance reports. (*Id.*, p. 50, OP 5.) The three largest IOUs have filed reports that now require updating. In particular, PG&E, SCE and SDG&E should file updated reports for calendar years (CYs) 2004 and 2005. The CEC will soon issue an updated Verification Report for these years. It is most efficient for respondents, parties and the Commission to prepare and review those updates after the CEC issues its updated Verification Report.

Therefore, within 30 days of the day the CEC issues its updated Verification Report for 2004 and 2005, PG&E, SCE and SDG&E should each file and serve updated compliance reports for 2004 and 2005. Filing and service should be in R.06-05-027. Parties may file comments and replies. Comments should be filed and served within 21 days, and reply comments within seven days. Motions for evidentiary hearing should be filed and served within five

days of the date reply comments are filed, and replies to motions within five days of the date motions are filed.³ The schedule is summarized below:

³ A motion for hearing must include certain items. For example, see August 21, 2006 Scoping Memo at page 4.

LINE NO.	ITEM	TIME INTERVAL (days)
1	CEC Issues Verification Report	0
2	Updated compliance report filed and served	+30
3	Comments filed and served	+21
4	Reply comments	+7
5	Motions for Hearing	+5
6	Responses to Motions	+5

Finally, the same schedule for the filing of comments, reply comments, motions for hearing and responses to motions will apply for future years, unless and until changed. This will provide a procedural framework and protocol for considering compliance and enforcement in future years for CY 2006, 2007 and beyond. If a formal RPS docket (such as R.06-05-027 or a successor proceeding) is not open, the updated reports shall be filed with Energy Division (not Docket Office), and served on the last, most current, RPS service list. Comments, replies and other pleadings will be filed with Energy Division, and served on the same service list.⁴

7.2. Calendar Year 2006

On February 20, 2007, the assigned Commissioner extended the date for the filing of the compliance report otherwise due by March 1, 2007. That report

⁴ Parties may seek modification to this schedule and procedure as appropriate and necessary at any time, and future ruling or Commission decision may adopt such changes. For now, however, this initiates a guideline for reasonable process.

is now due within 15 days after the day the Commission mails its decision on the November 22, 2006 application for rehearing of D.06-10-050.

Even though the CEC will not issue its Verification Report for 2006 until later in 2007, no further delay in that report is necessary or desirable. Rather, each RPS-obligated LSE, except as noted below, should file its CY 2006 report within 15 days after the Commission mails its decision on the application for rehearing of D.06-10-050, as the LSE would in the normal course of events. The LSE should then update that report within 30 days of the date the CEC issues its Verification Report for CY 2006 results. (*Id.*, OP 3.)

7.2.1 IOUs and SMJUs

The LSEs for purposes of the 2006 report here are large IOUs and small and multi-jurisdictional utilities (SMJUs). That is, D.06-10-050 establishes the baseline amount for all LSEs, subject to further orders on SMJUs, electric service providers (ESPs) and community choice aggregators (CCAs).

Sierra, PacifiCorp and others argue that those further orders are pending in R.06-02-012, and no reports should be required until those orders are issued. To the contrary, the methodology adopted in D.06-10-050 applies to all LSEs. In particular it applies to all IOUs, including SMJUs. All SMJUs are believed to have had sales in 2001, the year upon which the initial baseline is based. (Public Utilities Code § 399.15(b)(2).⁵) Unless and until refined by further order, the protocol for determining the initial baseline amount applies to all IOUs, including SMJUs. It is reasonable to begin collecting basic information for SMJUs now, starting with 2006 results. While further refinements may or may not later

⁵ All statutory references are to the Public Utilities Code unless noted otherwise.

occur in R.06-02-012, SMJUs should now report what they are able to report. This will provide useful and necessary information to the Commission, and context for further refinements, if and as necessary.

MU argues that it is in procedural limbo until it receives further Commission direction. For example, MU does not dispute that it is an LSE, but contends that it has no RPS obligation under current law. Rather, MU claims the Commission has made no creditworthiness determination regarding MU, as MU asserts is required by § 399.14(a)(1)(A). MU says this is required before MU has an RPS obligation.

To the contrary, MU has made no assertion that it is not creditworthy, and no information known to the Commission reasonably justifies a conclusion otherwise. The Commission determination referenced in § 399.14(a)(1)(A) is for entities with known or reasonably asserted investment grade credit rating concerns.⁶ That is not the case for MU. To require the expenditure of resources to determine what is not disputed is unreasonable and unnecessary. Unless and until MU, or a credible party, reasonably asserts that MU fails to have an investment grade credit rating, no Commission determination is needed before MU's RPS duties commence. Moreover, the statutory provision requiring a creditworthiness determination was removed by SB 107, and does not apply after January 1, 2007. It would be unreasonable to require a creditworthiness determination for limited prior years to address an unasserted position that does not apply after January 1, 2007.

⁶ This was true, for example, when PG&E declared bankruptcy and required certain relief from the Commission. (See, for example, D.03-12-035 and D.04-03-009.)

In addition, there is no dispute that D.06-10-050 adopts reporting rules that apply to all LSEs, including MU. Even if those reporting rules are subsequently modified by decision in R.06-02-012, it is reasonable for an initial report to be filed now by MU.

MU also asserts it is transmission-challenged and, as a result, is likely to be excused from RPS responsibilities based on flexible compliance provisions. (§ 399.14(a)(2)(C).) MU may or may not, however, be using, or be able to use, biofuels to satisfy certain RPS goals, in part or whole. An initial report will inform the Commission and provide context for further refinements, if and as necessary. Thus, MU along with other SMJUs should file a report for 2006 results.

7.2.2. ESPs and CCAs

ESPs and CCAs should not file reports for CY 2006 or other periods until further determinations are made. That is, further determinations are reasonably possible in R.06-02-012 regarding the initial baseline year, baseline amounts, and other fundamental elements for reporting purposes. For example, new law specifically sets 2006 as the first year of RPS duties for ESPs. (§ 399.12(h)(3).) The baseline amount established for LSEs based on 2001 may or may not apply to ESPs, and may or may not be further considered in R.06-02-012. Thus, ESPs and CCAs should await additional instructions, which will be provided in one or more upcoming decisions in R.06-02-012, subsequent assigned Commissioner or ALJ rulings, or subsequent directions from Energy Division.

IT IS RULED that:

1. The November 22, 2006 consensus proposal of Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company for a standardized renewables portfolio standard (RPS) compliance

report is adopted as the standardized RPS compliance reporting format, subject to the modifications stated in the body of this ruling and Appendix A. Energy Division shall modify the consensus proposal spreadsheet consistent with the directions herein, and make that spreadsheet available to each respondent and party.

2. Energy Division shall modify the reporting format as needed over time, and serve the modified reporting format on respondents and parties, consistent to the directions in the body of this ruling.

3. Respondents and parties may seek modification to the adopted final, standardized reporting format and/or process, as needed, by filed and served written motion in Rulemaking 06-05-027 or successor proceeding. If no such proceeding is open, respondents and parties may seek modification as provided in Decision 06-10-050 (e.g., by letter to the Executive Director), or other pleading consistent with the Commission's Rules of Practice and Procedure.

4. The schedule described in the body of this ruling for filing and serving updated reports for calendar years 2004 and 2005 is adopted, along with the schedule for filing comments, reply comments, motions and responses to motions. The procedural schedule for comments and motions after a compliance report is filed shall apply to future such filings unless and until modified.

5. Large investor owned utilities, and small and multi-jurisdictional utilities, shall file and serve a compliance report on 2006 RPS results as required by the February 20, 2007 assigned Commissioner's ruling (i.e., within 15 days of the day the Commission mails its decision on the application for rehearing of Decision 06-10-050). Electric service providers and community choice aggregators need not file compliance reports until further ordered.

Dated March 12, 2007, at San Francisco, California.

/s/ BURTON W. MATTSON

Burton W. Mattson
Administrative Law Judge

APPENDIX A

REPORT FORMAT ISSUES

1. Link or Drop-Down Menu

Alliance for Retail Energy Markets (AReM) and Green Power Institute (GPI) recommend addition of a link or drop-down menu from the summary tab to each year of summary reporting (such that the user can enter the current year and the current year's summary information is displayed). Only Pacific Gas and Electric Company (PG&E) expresses concern, saying it would accept proposals regarding additions, enhancements and corrections so long as the utilities have flexibility to consult and jointly determine how best to make the revisions.

No convincing reason is given to reject the recommendation. The proposal is adopted. The only issue is how it is accomplished. Energy Division (ED) will include links or drop-down menus for the standardized reporting format, to the extent reasonable and feasible, and will make an updated spreadsheet available, as explained in the ruling.

Relatedly, AReM supports the addition of hyperlinks for each accounting or earmarking line to a note or calculation explanation. This is reasonable and ED should include these links to the extent useful and feasible.

2. Subtotal for Biopower

AReM and GPI correctly point out the need for a line that subtotals biopower. This is consistent with the Commission's expectation. (Decision (D.) 06-10-050, p. 48, footnote 25.) The renewable portfolio standard (RPS) compliance report should include this subtotal on the summary page, and each accounting (backup) page. ED will include this subtotal in a manner that is clear

and, to the fullest extent feasible, results in an easy to use report format and spreadsheet.

3. Percent Total Target Achieved

AReM and GPI recommend that the summary page also include a line displaying the percentage of total target achieved (in addition to the annual procurement target - APT). This is reasonable, but requires two lines. That is, this percentage should be both for actual procurement, and actual procurement as adjusted for flexible compliance (based on the load serving entity's (LSE) proposal for applying allowable flexible compliance). In this way, the reader may see and compare on the summary page three important and key percentages: APT, actual procurement, and actual procurement adjusted by flexible compliance (as proposed to be applied by the LSE).

4. Addition of Other Resources

AReM supports allowing for future addition of other specific resources (e.g., wave/ocean) in the Accounting tab in lieu of the "catch-all" other technologies. Future additions are reasonable. The method to treat LSE-proposed changes to the standardized format is discussed in the ruling, along with changes to be made by ED.

5. Penalties in Thousands Not Millions

AReM supports the reporting of penalties in thousands of dollars instead of millions of dollars. There is no opposition. This recommendation, however, is not adopted.

Penalties will be based on renewable energy procurement. Penalties are calculable to the dollar. A default reporting of penalty amounts in dollars will better track actual penalties and payments, if any. Thus, the default should be dollars. On an exception basis, reporting LSEs may use thousands or millions if

the number of digits otherwise becomes excessive, as long as the reporting measure is clearly labeled. Absent Commission authorization otherwise, however, actual penalty payments, if any, are expected to be in the correct and accurate dollar amount.

6. Development of User's Manual

AReM supports development of a user's manual and/or an open forum to ask questions of ED staff when an LSE is completing the reporting spreadsheet. This proposal is adopted in part.

The development of a user's manual would likely be time and labor intensive. The need for what could turn out to be a long, complex and perhaps controversial manual is not convincingly established. As a result, ED staff will not be expected to prepare a user's manual.

On the other hand, ED should include brief instructions with the spreadsheet. Also, ED should include brief descriptions or notes within the spreadsheet where ED believes such annotation would be useful. ED should also be available for telephone, electronic mail, letter or other inquiry by an LSE on the use and completion of the spreadsheet. In general, however, it is expected that the template, with limited annotations and explanations, should be reasonably self-explanatory.

7. Redaction of First Three Years

LSEs expect to redact some data consistent with D.06-06-066. GPI asks that bundled sales for the first three projected years (along with derivative rows that would reveal the redacted cells) not be redacted, even if redaction is permitted by D.06-06-066. Rather, GPI says the public interest is better served by having LSEs round the projections for the sensitive years in order to hide the level of detail that the LSEs might not want revealed. GPI argues that rounded sales

projections are widely available, and making them public does not reveal trade secrets or market-sensitive information.

GPI's recommendation is not adopted. The reporting format venue is not a forum to relitigate D.06-06-066. Each LSE may reveal data if it wishes, and LSEs are encouraged to do so. At the same time, however, each LSE is permitted to, and must, employ all protections it believes appropriate or necessary, to the extent permitted by D.06-06-066 or subsequent Commission order on this subject.

8. Solar Distributed Generation

GPI recommends adding two rows to count eligible distributed generation (DG) on the customer side of the meter for purposes of RPS. This is opposed by Southern California Edison Company (SCE), San Diego Gas and Electric Company (SDG&E) and PG&E. GPI's recommendation is not adopted.

The decision to which GPI refers in support of its proposal is conditional: "To the extent that renewable energy credits from eligible renewable DG facilities are counted for purposes of RPS..." (D.05-05-011, Ordering Paragraph 4, cited in GPI Comments, p. 2.) The Commission recently found that renewable energy credits (RECs) from renewable DG facilities will not be counted for RPS purposes unless and until a tradable REC regime is put in place, and that ownership of RECs will remain with the owner of the generation facility. (D.07-01-018.) This makes GPI's recommendation currently moot.

9. Projections by RPS Resource Type

Two items are addressed here: (1) number of years, and (2) identification of 'existing/signed contracts and resources' versus 'other contracts and resources.'

9.1. Number of Years

GPI says it made a recommendation at the workshop that LSEs show projections disaggregated by resource category, rather than in the aggregate, for up to 14 years into the future. GPI reports this was met with resistance from investor-owned utilities (IOUs). GPI agrees with those who assert that long-term projections are uncertain, and states its real interest is in seeing projections by resource category one or two years into the future. GPI asks that IOUs be ordered to provide current year projections in their February reports, and current year plus year-ahead projections in their August reports.

GPI's recommendation must be understood in the context of Commission orders. The Commission requires that IOUs provide two reports per year, with updates as needed. The first report is March 1. The second report is August 1. The update reports, as needed, are on or about May 1, and within 30 days of the date of the relevant CEC Verification Report. (D.06-10-050, Ordering Paragraph 3.)

The Commission requires that these reports contain certain projections over different numbers of years. The March 1 report includes historic and current data plus projections for at least three years. (*Id.*, p. 49.) The August 1 report contains historic and current data plus projections through 2020. (*Id.*, p. 51.)¹

Projections are not just for total aggregate RPS procurement, but are to be disaggregated by resource type. That is, the Commission directed that the report

¹ Updates to a particular report should apply a consistent update to the entire report. This may be updates for at least three years, or updates through 2020, depending upon the report being updated.

“state under ‘total renewable generation’ the amount procured or projected to be procured from each renewable resource type.” (*Id.*, p. 47, emphasis added.) The Commission did not limit the projection to a specific number of years, but expects each report to contain projections disaggregated for the period covered by that report (e.g., at least three years for the March 1 report; through 2020 for the August 1 report).

AReM is correct when it asserts that the RPS Program is not resource-specific. Nonetheless, the Commission has directed that reports contain disaggregated data. This is based on the Commission having adopted, in part, the recommendation of the Center for Energy Efficiency and Renewable Technology for an integrated implementation workplan. (*Id.*, p. 44.)

The Commission does this because it is interested in seeing how each LSE believes it may achieve 20% by 2010, and potentially 33% by 2020. Moreover, it provides an opportunity in an open, transparent way to see the possible number of megawatts by resource category required to reach various goals (e.g., 20% by 2010; 33% by 2020; 20% biomass within RPS targets). It may assist LSEs or independent third parties identify areas in which attention should be focused for purposes of development or marketing. It can potentially provide information useful for program planning (e.g., megawatts by resource type that may or may not be feasible). This is an opportunity for LSEs to show creativity, innovation and vigor in program planning and execution. The Commission hopes LSEs use this opportunity to advance program goals (e.g., identify problems, and possible solutions, within resource categories that may need to be addressed before certain goals are achieved).

Other parties are certainly correct when they assert that long-range projections are uncertain. This is true for many elements of the program. For

example, fuel costs are currently forecast for up to 28 years in the development of the market price referent. (See Resolution E-4049 dated December 14, 2006, Appendix B.) Contracts must be made available for up to 20 years, and some contracts of that duration will likely be executed. The uncertainty and risk associated with cost forecasts and related contractual commitments are potentially more material than the uncertainty and risk with a nonbinding forecast of RPS resources by resource type. Nonetheless, forecasts by RPS resource type provide LSEs and parties an opportunity to demonstrate ingenuity as they plan and execute strategies to reach RPS Program goals. Thus, projections disaggregated by RPS resource category should be included with each report consistent with the Commission's directions.

9.2. Existing/Signed Versus Other

The Commission has specifically directed that:

“projected procurement should clearly differentiate energy to be procured from (a) existing and/or signed contracts and resources and (b) other contracts and resources (e.g., from a future solicitation, under negotiation, to be built).” (D.06-10-050, p. 51.)

Related to GPI's recommendation is the question of whether or not to require projected RPS resources disaggregated by type to also be differentiated each year (potentially through 2020) into existing/signed versus other. This level of differentiation is not adopted. That is, each resource type need not be further differentiated into existing/signed versus other. Rather, only the annual RPS resource total is to be further separated into existing/signed versus other.

10. Correction of Penalty Amount Formula

GPI asserts that the formula in the draft spreadsheet incorrectly calculates the penalty. GPI claims the formula calculates the penalty based on the

“cumulative surplus/deficit” but it should be based on the “current year shortfall.” No party argues otherwise. The correction should be made so that the penalty calculation is based on a single year’s shortfall, not a cumulative shortfall.

11. MWh Unit for Energy

The draft spreadsheet is denominated in kilowatt-hours (kWh). GPI and others argue it should be in megawatt-hours (MWhs). This recommendation is adopted. This unit is consistent with that used for RECs. It is also consistent with the unit being used by the CEC in its development of the Western Renewable Energy Generation Information System (WREGIS). The use of MWhs minimizes unnecessary numbers of digits on printouts.

The penalty calculation, however, is sensitive to the units and level of precision of reported numbers.² As a result, the numbers upon which penalty calculations will be made must be entered into the spreadsheet with sufficient precision to reflect kWh.³ ED’s instructions, or the spreadsheet itself, should make that clear.

12. Unprotected Version of Spreadsheet

GPI and other parties ask that the spreadsheet be unprotected and completely open for public inspection. This recommendation is sound.

² That is, one kilowatt-hour at \$0.05/kWh is \$0.05, while one megawatt-hour at \$0.05/kWh is \$50.00.

³ For example, 336, 579 kWh can be entered as 336, 579 kWh, or 336.579 MWh.

Data entries may require redaction, but the spreadsheet itself does not require protection. The spreadsheet should be available through ED in an unprotected, open form for any interested person to see and critique at any time.

ED may “lock-in” some equations, however, to facilitate completion of the report by an LSE, and use by others. For example, this will help ensure that certain RPS rules are being followed, and moderate the task related to affirming compliance with those rules.

Mountain Utilities (MU) recommends that the final spreadsheet be available in an unprotected version so that electric microuilities may amend the reporting format when the Commission determines the manner and form of MU’s RPS participation. This is generally a reasonable approach, within the context discussed previously. That is, the spreadsheet itself is always available to the public. At an LSE’s request, ED should provide the spreadsheet with “unlocked” equations.

As required below, however, the standardized format may not be changed by an LSE or party absent the granting of a motion, or authorization from the Executive Director. Nonetheless, an LSE may use any other spreadsheet in addition to the standardized spreadsheet, as needed, to make a full and complete report. MU may modify the standardized format for that purpose, but must make that clear in any use of a modified format.

13. PacifiCorp Comment on Allocation

PacifiCorp seeks to add a separate tab titled “MJU Eligible RPS Detail.” PacifiCorp says this will be used to allocate the total PacifiCorp renewables procurement within its multi-state operations to (a) California and (b) all other states in which it operates. There is no opposition. PacifiCorp’s proposal is adopted.

Adding a separate tab (used only by a few LSEs) should help keep the primary report (used by most LSEs) relatively uncluttered. Moreover, should the desirability of separate spreadsheets subsequently become apparent, LSEs and/or parties may later propose a separate, standardized master spreadsheet to reflect the individual differences between the four major categories of LSEs (large IOUs, small and multi-jurisdictional utilities (SMJUs), electric service providers (ESPs), community choice aggregators (CCAs)). As explained further below, ED, in its ongoing administration of the program, should modify the spreadsheet as needed. This may include modifications for the differences related to the four major categories of LSEs.

14. Mountain Utilities Request Regarding Deferral

MU recommends that the spreadsheet be amended to include the following footnote:

“The Commission defers implementation of the RPS compliance reporting requirements as applicable to Mountain Utilities until such time as the Commission addresses the issue of flexible RPS compliance by transmission-challenged utilities called for by newly enacted Public Utilities Code Section 399.14(a)(2)(C)(ii), due to MU’s physical inability to procure eligible renewable energy resources sufficient to satisfy RPS requirements, given MU’s lack of connection to California’s transmission grid.” (Comments, p. 7.)

This recommendation is not adopted. MU may or may not be able to use biodiesel or other fuels to qualify its generation, in part or whole, as RPS-eligible generation. This is independent of MU’s transmission situation. Verification of RPS-eligible generation is made by the CEC. As CEC makes its determinations over the next few years, compliance reports should be required here to track MU’s progress, if any, in meeting RPS goals.

Completion of the compliance report is not unduly burdensome. For example, it may be that MU's reports will largely be populated with zero entries, depending upon future transmission and fuel issues. If it is later determined that MU's RPS obligations are waived due to transmission and/or other conditions, the reporting requirement may be reconsidered. If those events occur, MU may later file a motion seeking permanent waiver of RPS reporting obligations, or any other appropriate relief.

15. Other

The compliance reports will also be consistent with the following directions.

First, each report shall have a title page. (See Rule 1.6 of the Commission's Rules of Practice and Procedure.) This will facilitate the filing of each report in R.06-05-027 (or a successor proceeding) while such proceeding is open. As noted in the ruling, for example, the 2004 and 2005 update reports of PG&E, SCE and SDG&E shall be filed and served in R.06-05-027. The title page should also contain the date the document is filed (e.g., lower left quadrant). When there is no proceeding in which the report is filed, the report shall continue to be submitted or "filed" with the ED. At that time the caption and docket number may be eliminated (Rule 1.6.(a)(2) and (3)), or other information inserted as directed by ED.

Second, each report shall be verified. (Rule 1.11.) Evidentiary hearing on these reports will be held if motion is made and granted for such hearing, or if otherwise directed by the Administrative Law Judge or assigned Commissioner. Absent hearing, however, the Commission still intends to rely on the veracity of each report. Penalties up to \$25 million may be levied based on these reports.

This involves a range of results that includes nontrivial amounts, and justifies verification of the underlying report.⁴

Third, the verification must state whether or not the report format is consistent with the one released by ED. This will clarify whether the submitted report is or is not consistent with the adopted standardized reporting format, or is one modified by the LSE for the purpose of what the LSE asserts is a more complete report.

Fourth, the summary page should be reorganized for additional ease of use and readability. The reorganization, for example, highlights the key numbers in which it is expected many observers will be most interested: APT, actual procurement percentage, procurement percentage after application of flexible compliance, penalty.

Fifth, a subtotal for the biopower percent will be included for forecasting of RPS projects by type. This will simplify the item in which some observers will be most interested, pursuant to Executive Order S-06-06. (Note: Section 2 above addresses energy deliveries, while the percentage is addressed here.)

Sixth, the report shall clearly show how the 2003 initial baseline procurement amount is developed. That is, D.06-10-050 adopts one approach. SCE has filed an application for rehearing that asserts another approach is proper. Whichever approach is adopted, it is important the early RPS reports

⁴ In the case of a corporation, the verification required here must be by a corporate officer. (Rule 1.11.) That is, the potential assessment of a penalty up to \$25 million is important enough to require verification by a corporate officer. The exception allowed corporations with respect to other documents and pleadings filed in this proceeding is not adopted here (i.e., verification by an employee or agent at the manger level or above). (Ruling dated December 6, 2006.)

clearly show application of whichever approach is employed so parties may determine if they agree or disagree that the approach is being properly implemented.

Seventh, the report shall contain a space to allow the LSE to provide further information required by the Commission. In particular:

“The report must state each reason an LSE asserts in support of deferral or waiver of any penalty related to any reported deficit. If no reason is stated, the penalty should be paid. If paid (or to be paid), the report should state all relevant information (e.g., amount, date, to whom paid).” (D.06-10-050, p. 48.)

Eighth, provision shall be made for LSEs to include any other relevant information not reported elsewhere.

Finally, ED may make certain other modifications to the spreadsheet. That is, LSEs must provide data to the Commission and its staff in the form and detail prescribed. ED may request this information in the form of additional data to be supplied with the reporting spreadsheet, as ED determines appropriate and reasonable. (Pub. Util. Code § 581, 701, 399.11, *et seq.*, D.05-07-039, D.06-10-019, D.06-10-050.) To do this, ED may make modifications to the spreadsheet to facilitate tracking of procurement from specific contracts, applying flexible compliance, and following other complex elements of this program. These items would in some situations be left to workpapers or data requests. In this case, however, a more routine and standardized format for presentation of complete data is desirable given the complexity of the program, large numbers of LSEs, significant penalty dollar amounts potentially at stake, and the need for reasonable standardization to permit efficiency in program administration.

(END OF APPENDIX A)

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the Notice of Availability to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the Notice of Availability is current as of today's date.

Dated March 12, 2007, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid