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REPLY COMMENTS OF THE UTILITY REFORM NETWORK AND THE COALITION OF CALIFORNIA UTILITY EMPLOYEES ON THE ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON NEW PROCUREMENT TARGETS AND CERTAIN COMPLIANCE REQUIREMENTS FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM

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Pursuant to the July 15, 2011 ruling of ALJ Simon, The Utility Reform Network (TURN) and the Coalition of California Utility Employees (CUE) submit these reply comments on the creation of renewable procurement targets for retail sellers under SBx2. TURN/CUE focus primarily on the opening comments submitted by the Investor Owned Utilities (IOUs) and Electric Service Providers (ESPs). These retail sellers almost uniformly propose interpretations of SBx2 that would seriously degrade the expected benefits of the 33% RPS program on the development of new renewable generation.

It is unremarkable that retail sellers desire fewer obligations, lower targets and more flexibility. However, some of the positions taken by these parties are flatly inconsistent with the plain text of SBx2, the established intent of the Legislature, and common sense. The Commission must exercise its independent judgment to ensure that the procurement targets and banking rules reflect the goals of the Legislature, do not create unintended loopholes, and incorporate key lessons learned from the 20% RPS program experience.

I. SBX2 OBLIGATIONS COMMENCE ON JANUARY 1, 2011

Several parties urge the Commission to delay the application of SBx2 program rules until January 1, 2012 or later. Pacificorp, Shell, and Noble all assert that the Commission cannot apply the procurement targets and other new program rules

beginning on January 1, 2011.[1] These parties suggest that retail sellers cannot reasonably attempt to satisfy the new targets until all rules are established. Noble goes further and asserts "procurement activities during 2011 have been significantly curtailed because the parameters of the new 33% RPS program have not yet been defined."[2]

The Commission should disregard these suggestions and apply all SBx2 rules as of January 1, 2011. The statute clearly indicates that this date marks the beginning of the first compliance period which runs from 2011-2013. There are no sections of SBx2 stating (explicitly or implicitly) that the Commission has the discretion to delay the commencement of this compliance period. The statutes also provide for specific treatment of contracts executed after June 1, 2010 for purposes of determining compliance with the product category requirements of §399.16.

In effect, these parties ask the Commission to ignore the statutory requirements and unilaterally extend the previous program requirements. Such an outcome would constitute legal error. Had the Legislature sought to provide this type of transitional flexibility, this option would have been included in the final Legislative package.

Contrary to the claims of these parties, there is no evidence that procurement by retail sellers has been curtailed pending the resolution of key implementation disputes. The three major IOUs have already executed a number of contracts since the passage of SBx2 and recently finalized their short lists of bidders in their 2011 RPS RFOs. If other retail sellers have not proceeded with renewable procurement activities, the Commission should recognize this refusal as a deliberate choice. Moreover, the Commission cannot ascertain whether there is any truth to the claims made by Noble since the ESPs refuse to disclose information about their current

[1] Pacificorp opening comments, page 14; Shell opening comments, page 2; Noble opening comments, pages 2-3.
[2] Noble opening comments, page 3.

procurement activities. Therefore, the Commission should dismiss unsupported assertions especially in light of the fact that the major IOUs are already moving forward expeditiously with their own renewable procurement activities.

II. PROCUREMENT TARGETS

Parties offer a range of opinions about the optimal methodology for setting multi-year procurement obligations. Unsurprisingly, retail sellers uniformly oppose the "linear trend" straw proposal included in the ALJ ruling. Instead, they propose less aggressive targets and timetables that would significantly degrade the benefits of SBx2. TURN/CUE urge the Commission to reject attempts to water down the long-term procurement obligations. Given the extraordinary abundance of supply of renewable generation available to retail sellers over this period, there is no reason to scale back the goals of the program by adopting weak targets. Energy Division participants in the Procurement Review Groups for the three major IOUs are well aware of the deluge of offers received in recent RFOs.

The three IOUs align on a backloaded trend that assume increases in RPS procurement of 1 percent per year in 2014, 2015, 2017, 2018, and 2019 with larger jumps only in 2016 and 2020.[3] The IOUs argue that a scaled-back obligation accounts for the lumpiness of renewable procurement and provides greater flexibility relative to the linear trend.[4] These arguments are designed to obfuscate the real issue. The Legislature explicitly selected multi-year obligations to address the lumpiness concern identified by various stakeholders. Since all parties agree that there are no intervening year obligations, the slope of the trend serves <u>only</u> to change the total multi-year quantities. Whether a generation project comes online in a particular intervening year is of no consequence to the choice between the linear or backloaded

[3] PG&E opening comments, page 7.
[4] SDG&E opening comments, page 6; SCE opening comments, page 8.

trend. Therefore, concerns about lumpiness are not relevant to establishing multi-year compliance period obligations.

None of the proponents of the backloaded trend attempt to quantify the long-term difference in overall renewable procurement relative to the linear trend. Using publicly available data, TURN/CUE calculate that the difference between these two approaches is quite significant.[5] For the IOUs alone, the backloaded trend would reduce total renewable procurement by over 14,000 GWh during the second and third compliance periods (relative to the linear trend). When the expected procurement by ESPs and Publicly Owned Utilities (POUs) is included, the reduction would amount to almost 22,000 GWh between 2014-2020. Over three quarters of the difference between the linear and backloaded trend occurs in the last compliance period. The resulting gap would mean a difference of almost 2,000 MW of solar or wind generation operating between 2017-2020.

Other parties suggest a flat "stair-step" approach in which the assumptions for intervening years are the same as the last year of the previous compliance period.[6] Under this approach, retail sellers and POUs would be assumed to maintain a 20% renewable portfolio through 2015, then jump to 25% in 2016 and remain at that level until 2020. These parties assert that the "reasonable progress" standard could be satisfied by demonstrating that the retail seller or POU took specific actions even if such actions do not result in an increase in the quantities actually procured. For example, LADWP suggests that "developing an Environmental Impact Report" or "issuing a request for proposals" would be sufficient to satisfy this requirement.[7]

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[5] TURN/CUE would be happy to provide the backup data to Commission staff upon request.
[6] AREM opening comments, page 7; Pacificorp opening comments, pages 4-5; LADWP opening comments, page 5; Noble opening comments, page 5.
[7] LADWP opening comments, page 5.

Pacificorp similarly proposes "incorporating non-procurement factors into what constitutes 'reasonable progress'".[8]

The Commission should reject these proposals. The Legislature could have adopted a stair-step approach to procurement targets, similar to the AB 32 proposal adopted by the California Air Resources Board, but instead embraced multi-year targets that assume "reasonable progress" during each compliance period. The stair-step approach would yield approximately 46,000 GWh less of renewable procurement between 2014-2020 by retail sellers and POUs when compared to the linear trend. In the third compliance period alone, the difference is equivalent to approximately 3,800 MW of solar or wind generation.

The "reasonable progress" standard cannot be met through the initiation of CEQA review or the issuance of an RFP. The statute requires that "<u>the quantities</u> shall reflect reasonable progress in each of the intervening years." (§399.15(b)(2)(B)) The Commission is charged with determining what <u>quantities</u> appropriately reflect the reasonable progress standard. Actions taken by the retail seller or POU to achieve compliance that do not successfully result in actual increases in procured renewable electricity are not relevant to the setting of procurement targets but may be relevant in the event of a request for an enforcement waiver pursuant to §399.15(b)(5).

AREM and Noble offer a bizarre hybrid approach which relies upon the stair-step trend for purposes of setting a "minimum threshold" coupled with a higher set of linear trend targets used to determine quantities eligible for banking.[9] There is no statutory basis for the Commission establishing one set of overall targets for compliance and another for determining whether banking should be permitted. Noble and AREM fail to identify any statutory authorization for this approach and

[8] Pacificorp opening comments, pages 4-5.
[9] Noble opening comments, page 3; AREM opening comments, page 7.

mistakenly believe that the Commission is free to invent alternative compliance and banking targets that are flatly inconsistent with SBx2.

The Commission should reject these creative attempts to water down RPS compliance obligations and instead adopt the linear trend approach outlined in the original ALJ ruling. This outcome is most consistent with the intent of the Legislature and will ensure that the RPS program delivers the quantities of new renewable generation envisioned by the Governor and the Legislature.

III. LONG-TERM CONTRACTING REQUIREMENTS UNDER §399.13(b)

Many parties offer their opinions about the proper implementation of the long-term contracting requirements in §399.13(b). Most endorse a continuation of the basic standard adopted in D.07-05-028.[10] However, parties appear to be confused about what was required by D.07-05-028 and fail to make any allowances for the differences between the switch from annual to multi-year targets. Under D.07-05-028, any retail seller seeking to apply short-term contract quantities to RPS compliance must execute, on an annual basis, contracts of at least 10 years duration for energy deliveries equivalent to at least 0.25% of the prior year retail sales.[11]

Applying this requirement to the SBx2 program requires modifications to account for compliance obligations spanning multiple years. TURN/CUE urge the Commission to enforce this requirement at the end of every compliance period as a condition for receiving credit for short-term contract quantities. The Commission should further modify the requirement to comprise a percentage of the total compliance obligation for the entire multi-year period rather than based on retail sales in a given year. Specifically, TURN/CUE urge the Commission to require that at least <u>25% of total</u>

[10] PG&E opening comments, page 15; SDG&E opening comments, page 16; SCE opening comments, page 14; Noble opening comments, page 7.
[11] D.07-05-028, Ordering Paragraph 1.

compliance is satisfied with long-term contract quantities in order to count short-term contracts.

This reformulation of the standard will be far simpler to administer and avoids the risk retail sellers will game the standard by executing illusory long-term contracts that are unlikely to actually perform or have some other fatal deficiency. The Commission should not be forced to evaluate the legitimacy of every long-term contract executed by each ESP. Instead, the Commission can simply require that a fraction of total compliance be associated with long-term contracts. This approach forces the retail seller to be responsible for managing the risk that the long-term contracts are with viable projects and are likely to perform. Requiring 25% of total compliance to be provided under long-term contracts would be a modest standard that should not be challenging for any good faith retail seller to satisfy.

TURN/CUE urge the Commission to reject CCSF's proposal to eliminate the long-term contracting requirement "when the applicable RPS level is achieved" in a given compliance period.[12] CCSF's proposal appears to suspend the obligation to execute any long-term contracts so long as the retail seller procures sufficient renewable energy under short-term contracts to satisfy the multi-year compliance targets. This means that a retail seller relying entirely on short-term contracts for 100% of its RPS obligations would satisfy the requirements of §399.13(b). This approach does not satisfy the statutory language and should be rejected.

The Commission should also reject Shell's request to count pre-2011 contracts towards the new §399.13(b) requirement if they met the criteria contained in the previous version of §399.13(b).[13] Shell asks for this treatment because, according to compliance reports filed with the Commission, it executed short-term contracts in

[12] CCSF opening comments, page 6.
[13] Shell opening comments, pages 5-6.

2008 and 2009 with two out-of-state wind facilities commencing operations after January 1, 2005.[14] In modifying §399.13(b), the Legislature obviously intended to prevent short-term contracts from being used to satisfy the requirement regardless of the vintage of the underlying facility. The Commission may not allow Shell to count these short-term contracts towards prospective obligations under the revised §399.13(b).

Finally, the Commission should reject CalPeco's request to be exempted from the §399.13(b) requirement.[15] CalPeco seeks to limit applicability to the "large IOUs", ignoring the fact that the Commission applied this requirement to ESPs and CCAs in D.07-05-028. Since CalPeco has more retail sales than several of the smaller ESPs, there is no reason to grant this request for an exemption. Moreover, there is nothing in §399.17 that excuses compliance with §399.13(b). CalPeco is classified as a retail seller and must therefore be subject to the same requirements with respect to long-term contracting.

IV. BANKING OF EXCESS PROCUREMENT ASSOCIATED WITH SHORT-TERM CONTRACTS AND §399.16(B)(3) PRODUCTS

The opening comments of retail sellers offer a tutorial in the varied strategies for circumventing the restrictions on banking excess compliance associated with short-term contracts and third product category procurement. Retail sellers suggest various interpretations of §399.13(a)(4)(B) that would effectively nullify the explicit statutory restrictions that were the product of intense and prolonged legislative negotiations. Rather than allowing retail sellers to find creative ways to avoid the requirements, the Commission should adopt clear rules to ensure that no procurement associated with short-term contracts or §399.16(b)(3) products can

[14] See Shell RPS compliance report, filed July 29, 2011 in R.11-05-005.
[15] CalPeco opening comments, page 8.

contribute towards any banked excess for a given compliance period – exactly the outcome mandated by statute.

A. Third category products

PG&E, SDG&E and Pacificorp argue that the prohibition on banking third category products should be ignored. Claiming that the language is ambiguous, these IOUs assert that such procurement is not treated as excess so long as the quantities are applied first to any compliance requirement before counting quantities associated with other products.[16] This interpretation is not shared by SCE, which concurs with TURN/CUE that the last sentence of §399.13(a)(4)(B) does indeed prohibit banking of third category products and cannot be circumvented through basic accounting tricks.

Under the PG&E/SDG&E/Pacificorp approach, a retail seller may evade the restriction by simply choosing to stack the procurement quantities so that third category products are the first to be counted in a given compliance period. Allowing this simple strategy to be used to circumvent the restriction would render the prohibition utterly meaningless. It is a basic tenant of statutory construction that the Commission should give meaning to each word or phrase of a statute.[17] The Legislature did not intend for this requirement to be hollow or to allow retail sellers to comply by engaging in shell games. The Commission should therefore require that any third category product quantities will be deducted from total procurement in a given compliance period prior to calculating any excess.

An even more troubling strategy for banking third category products involves waiting to retire RECs in WREGIS until 36 months after they are initially created. In opening comments, PG&E and SCE explain how they intend to use this strategy to

[16] PG&E opening comments, page 23; SDG&E opening comments, page 20; Pacificorp opening comments, page 12.
[17] See *Arnett v. Dal Cielo* (1996) 14 Cal.4th 4, 22.

circumvent the prohibition on banking third category products.[18] TURN/CUE previously identified this practice as 'REC reshuffling'. Given the stated intention to employ this exact strategy, the Commission should adopt the TURN/CUE proposal to require that RECs are retired in the same compliance period when their associated electricity was procured by the retail seller. Absent such a rule, all retail sellers will delay retiring RECs until the end of the 36-month period in order to maximize their use for compliance purposes. This means that a retail seller could procure RECs in 2014, realize that they are not needed for the 2016 compliance showing, delay retirement until 2017, and then apply them towards the compliance obligation in 2020. Under this very real scenario, the retail seller has effectively banked the RECs across compliance period, an outcome that the Legislature mandated happen "in no event" (§399.13(a)(4)(B)).

The Commission should also be watchful for efforts by retail sellers to reallocate RECs procured for RPS compliance in 2009 and 2010 to the 2011-2013 compliance period. Retail sellers may have acquired RECs that have not yet been retired but were intended to be applied to RPS compliance in 2009 or 2010. Given the deficit waiver tied to a 14% portfolio in 2010, retail sellers could have an incentive to essentially bank procurement in excess of the minimum 2010 threshold and carry those unretired RECs into the SBx2 program. The Commission must prevent such abuse from occurring by adopting the TURN/CUE proposal.

B. Procurement associated with pre-2011 contracts

All IOUs and ESPs seek authorization to bank any excess procurement associated with all contracts executed prior to June 1, 2010 regardless of the duration of the arrangement or the product involved.[19] In a similar vein, Shell and AREM seek

[18] PG&E opening comments, page 20; SCE opening comments, page 18.
[19] PG&E opening comments, page 17; SDG&E opening comments, page 18

permission to bank short-term and third product category procurement if the contract was executed prior to December 31, 2010.[20] TURN/CUE oppose both requests.

The restrictions in §399.13(a)(4)(B) are independent of the grandfathering clause in §399.16(d). Contracts executed prior to June 1, 2010 may "count in full" towards compliance without being eligible for banking. The intent of §399.16(d) was to allow procurement of out-of-CAISO renewable energy and unbundled RECs to be applied towards compliance targets notwithstanding the product limits in §399.16(c). The banking restrictions are unrelated to the §399.16(c) limits, especially given that §399.16(c) does not contain any requirements with respect to contract duration. Even if the Commission agrees with the IOUs on this point, the Shell/AREM request should be denied because the "count in full" provision only applies to contracts executed prior to June 1, 2010. There is no statutory basis for extending this treatment to contracts executed after that date.

C. Additional proposals to circumvent the banking restrictions should be rejected

TURN/CUE urge the Commission to reject the following proposals raised in opening comments:

- Noble's proposal to allow the banking of short-term contract quantities if compliance is achieved with procurement under long-term contracts.[21] This treatment is flatly inconsistent with the requirement that short-term contract quantities be deducted from total procurement prior to calculating any excess eligible for banking.

[20] Shell opening comments, page 4; AREM opening comments, page 17.
[21] Noble opening comments, page 8.

• PG&E's proposal to allow multiple short-term contracts with the same counterparties to be aggregated and treated as a single long-term contract.[22] This concept invites various gaming strategies to be employed, only some of which can be foreseen at this time. In effect, it allows retail sellers to avoid the banking restrictions merely by signing short-term contracts with any counterparty with whom it has a "continuous relationship." Since PG&E has ongoing relationships with practically every renewable developer and power marketer in the WECC, this criteria could prove to be utterly meaningless.

• PG&E's proposal to allow retail sellers to prematurely terminate long-term contracts without jeopardizing the ability to bank the procurement associated with the resource.[23] PG&E provides a roadmap for a sham transaction in which a retail seller procures renewable energy under a 10-year contract but intentionally terminates the deal after 1 or 2 years. In particular, this strategy could encourage ESPs to construct long-term contracts that actually function as short-term agreements by including provisions that permit early "no fault" termination without financial consequence to the buyer. The Commission can police such abuses by ensuring that any bankable excesses attributed to a particular contract are tied to the successful performance of the contract over a period of at least 10 years.

• AREM's notion that excess procurement under §399.13(a)(4)(B) should be calculated relative to the product category limits in §399.16.[24] AREM seeks to evade the banking restrictions by allowing any procurement of first product category resources to be considered excess compliance if the quantities exceed the minimum specified in §399.16(c)(1). This proposal is unworkable and violates §399.13(b) by allowing short-term contracts and third category

[22] PG&E opening comments, pages 2, 21-22.
[23] PG&E opening comments, pages 21-22.
[24] AREM opening comments, page 18.

products to contribute towards banked quantities. The product categories in §399.16 do not distinguish between long-term and short-term arrangements. AREM provides no evidence that its approach is either consistent with legislative intent or even a plausible interpretation of §399.13(a)(4)(B).

V. DETERMINING COMPLIANCE FOR RETAIL SELLERS PROCURING AT LEAST 14% OF RETAIL SALES FROM ELIGIBLE RENEWABLE ENERGY RESOURCES IN 2010

The three major IOUs and AREM argue that §399.15(a) forgives deficits associated with the 20% RPS program based on a showing that actual procurement in 2010, plus prior banked surpluses, exceeded 14% of 2010 retail sales.[25] AREM further claims that retail sellers should automatically get credit for a 0.25% APT deferral consistent with previous RPS program rules, thereby bringing the effective waiver threshold down to 13.75%.[26]

TURN/CUE disagree with these interpretations. SBx2 makes no reference to banked surpluses from previous years and should not be rewritten to assume that 14% actually equals 13.75%. The statutory section explicitly states that any retail seller seeking to have deficits waived must demonstrate renewable procurement equal to at least 14 percent of retail sales <u>in 2010</u>. Had the Legislature intended to allow procurement in previous years to be considered, the statute would have clearly indicated that prior year activities were relevant.

As indicated in opening comments, TURN/CUE believe that actual procurement in 2010 is the key to determining whether the waiver applies. If actual procurement was below 14% in 2010, then the waiver is not applicable and any banked surpluses from prior years can be applied to determine whether a retail seller is in full

[25] PG&E opening comments, pages 10-11; SCE opening comments, pages 11-12; SDG&E opening comments, page 10; AREM opening comments, page 9.
[26] AREM opening comments, page 9.

compliance through December 31, 2010. For this purpose, full compliance assumes that the actual target for 2010 is 20% of retail sales.

VI. ABILITY OF RETAIL SELLERS TO BANK PROCUREMENT EXCEEDING 14% OF 2010 RETAIL SALES

Both Pacificorp and AREM make the audacious claim that the provision in §399.15(a) waiving past deficits is intended to provide a bankable surplus to use for future obligations for any retail seller exceeding the 14% procurement threshold in 2010. Pacificorp asserts that this treatment is important to "avoid punishing those parties that made good faith efforts to meet the RPS requirements."[27] These overreaching and self-serving arguments should be flatly rejected by the Commission.

The argument suffers from two fatal flaws. First, the 14% threshold in §399.15(a) only references relief from deficits associated with the previous RPS program. As many parties have explained, the purpose of this provision was to provide a 'clean slate' for a wide array of retail sellers under the new 33% program. There are no indicia of any intent to simultaneously provide bankable excesses for retail sellers exceeding this threshold. Such an outcome would not be consistent with the notion of a 'clean slate'. Second, SBx2 explicitly limits the accumulation of bankable excesses to procurement beginning on January 1, 2011 (§399.13(a)(4)(B)). Had the Legislature intended to allow previous bankable excesses to be rolled into the new program, there would have been no date cutoff in this section.

On a policy basis, allowing retail sellers to receive credit for excess based on a 14% APT for 2010 would seriously degrade 2011-2013 procurement obligations under SBx2. This single change would immediately create close to 3,000 GWh of bankable

[27] Pacificorp opening comments, page 7. The claim regarding "good faith efforts" rings hollow since Pacificorp appears to have a net cumulative deficit under the 20% program, achieved only slightly more than the 14% threshold in 2010, and projects a future renewable portfolio of no more than 15.8% through 2020. (see Pacificorp RPS compliance report, filed August 1, 2011 in R.11-05-005).

excess for PG&E and SDG&E that would reduce their procurement obligations over the coming years.[28] ESPs would net over 1,600 GWh of bankable excess under AREM's proposal, an amount equivalent to approximately 10% of the annual retail consumption of all direct access customers.[29] None of these retail sellers had any reasonable expectation of receiving such compliance windfalls under the 20% RPS program structure.

The Commission should reject efforts to mutate the threshold for waiving past deficits into a mechanism that generates huge bankable surpluses for future obligations for retail sellers and POUs. Such an outcome would constitute legal error and is simply bad policy.

VII. APPLICATION OF PROCUREMENT OBLIGATIONS TO SMALL AND MULTI-JURISDICTIONAL UTILITIES SUBJECT TO §399.17

CalPeco requests up-front relief from meeting any Commission-adopted procurement targets through 2015. Claiming that all its renewable power is procured pursuant to an all-requirements contract (the "Sierra PPA") providing a 20% renewable portfolio from 2011-2015, CalPeco asserts that the Commission may not apply any targets in excess of 20% to CalPeco through 2015 pursuant to the provisions of §399.17.[30]

As a threshold matter, §399.17 does not provide any exemption from the overall procurement obligations established pursuant to §399.15(b). This section exempts eligible electrical corporations from the product category requirements of §399.16 (§399.17(b)) and allows integrated resource plans prepared for another state utility

[28] Based on TURN/CUE calculations using publicly available data from RPS compliance filings.
[29] Based on TURN/CUE calculations using publicly available data from RPS compliance filings and other non-confidential and non-privileged communications.
[30] CalPeco opening comments, page 4.

commission to be submitted as a substitute for a California-specific renewable energy procurement plan (§399.17(d)). There is no language in this section authorizing the Commission to establish different targets or timetables.

CalPeco does not need the exemption it seeks. If it procures a 20% renewable portfolio for 2011-2013, it will satisfy the procurement targets for this compliance period. Since the Sierra PPA is due to terminate in 2015, CalPeco can contract for additional renewable energy in 2016 sufficient to satisfy the 2014-2016 compliance obligations. CalPeco has not explained why such a strategy is infeasible.

Arguments over the relationship of §399.17 to the §399.15 procurement targets are misplaced. If CalPeco is unable to satisfy the adopted procurement targets, it should file for a compliance waiver pursuant to §399.15(b)(5). In such a filing, CalPeco has the opportunity to demonstrate that its failure to comply is due to factors beyond its reasonable control.

VIII. CERTIFICATION THAT A PUBLICLY OWNED UTILTIY SATISFIES THE REQUIREMENTS OF SECTION 399.31

LADWP urges the Commission to allow retail sellers to procure RECs from POUs based on a showing that the POU has adopted its own renewable procurement plan and is procuring sufficient resources to satisfy the targets contained in its own plan.[31] While these conditions are necessary, they are not sufficient to satisfy the requirements of §399.31. In order to meet those requirements, the CEC must certify that the POU has submitted a compliant renewable procurement plan and is procuring sufficient resources to meet CEC-adopted targets. The CEC must review and approve these plans to ensure that POUs are not adopting impermissible targets or including ineligible resources. The Commission should therefore include a CEC

[31] LADWP opening comments, page 8.

certification requirement in order to trigger eligibility for a retail seller to procure RECs from any POU.

Respectfully submitted,

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Dated: September 12, 2011

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 September 12, 2011, at San Francisco, California.

_____/S/_____

Matthew Freedman
Staff Attorney

VERIFICATION

I, Marc D. Joseph, am an attorney of record for the Coalition of California Utility Employees in this proceeding. No officer of CUE is located in this County where I have my office. I am authorized to make this verification on the organization's behalf. I have read this document. The statements in this 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 declare under penalty of perjury that the foregoing is true and correct.

Executed on September 12, 2011, at South San Francisco, California.

_____/S/_____
Marc D. Joseph
Attorney for the Coalition
of California Utility Employees