



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

STATE OF CALIFORNIA

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Order Instituting Rulemaking to Continue)
Implementation and Administration of) Rulemaking 11-05-005
California Renewables Portfolio Standard) (Filed May 5, 2011)
Program.)

**SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) COMMENTS ON
PROPOSED DECISION SETTING COMPLIANCE RULES FOR THE RENEWABLES
PORTFOLIO STANDARD PROGRAM**

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Dated: May 14, 2012

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DECISION SETTING COMPLIANCE RULES FOR THE RENEWABLES PORTFOLIO
STANDARD PROGRAM**

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Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Southern California Edison Company (“SCE”) respectfully submits these comments on the Proposed Decision Setting Compliance Rules for the Renewables Portfolio Standard Program (“PD”).

I.

INTRODUCTION

SCE strongly supports most aspects of the PD’s implementation of the new rules for Renewables Portfolio Standard (“RPS”) program compliance established by Senate Bill (“SB”) 2 (1x). As the PD recognizes, any compliance rules should be consistent with the Legislature’s intent regarding the 33% RPS program’s structure. “[T]he statute’s plain meaning controls . . . unless its words are ambiguous.”¹ Moreover, if “the statutory language permits more than one reasonable interpretation,” the Commission “may consider other aids such as the statute’s purpose, legislative history, and public policy” and “policy has long been to favor the construction that leads to the more reasonable result.”²

¹ PD at 8 (citations omitted).

² *Id.* (citations omitted).

As an active participant in the legislative negotiations that led to the enactment of SB 2 (1x) and a supporter of the final bill, SCE believes the PD's interpretation of the new RPS legislation is fully consistent with the plain language of the statute and SCE's direct knowledge of the discussions surrounding the language that was eventually adopted by the Legislature. The PD's RPS compliance rules are also good policy that will lead to reasonable implementation of the 33% RPS program. Indeed, the PD adopts simple and straightforward rules that will further the Legislature's goal of reaching 33% renewables in a manner that protects customers' pre-existing investments in renewable resources, provides the market certainty necessary to support renewable procurement efforts, makes a clear transition to the new program rules, and results in fair, efficient, and transparent administration of the RPS program by the Commission.³

In particular, the PD correctly determines that the "safe harbor" provision in SB 2 (1x) eliminates all prior RPS procurement deficits for retail sellers that procured at least 14% renewables in 2010.⁴ SCE also fully endorses the PD's holding that contracts or ownership agreements executed prior to June 1, 2010 "count in full" toward new RPS program requirements.⁵ Specifically, the PD properly recognizes that such pre-June 1, 2010 contracts count in full toward RPS compliance regardless of the portfolio content categories, qualify as excess procurement that may be banked across compliance periods, and are not subject to any restrictions on the use of short-term contracts. The PD also appropriately concludes that renewable energy credits ("RECs") acquired by a retail seller in one compliance period may be retired in a later period, so long as the retirement occurs within 36 months of the date of the generation associated with the REC.⁶ Additionally, SCE supports most other elements of the PD

³ See Administrative Law Judge's Ruling Requesting Comments on New Procurement Targets and Certain Compliance Requirements for the Renewables Portfolio Standard Program, July 15, 2011, at 3-4 (listing fair, efficient, and transparent administration of the RPS program, straightforward calculation of RPS compliance obligations, market certainty, resolving transition issues between the old and new RPS programs, and avoiding creating new issues in the transition as guiding principles).

⁴ See PD at 19-23.

⁵ See *id.* at 26-30.

⁶ See *id.* at 46-48.

including the method of calculating excess procurement, the basic minimum quantity requirements to use short-term contracts, and the adoption of annual compliance reporting.

As discussed in more detail below, SCE recommends a few minor revisions to the PD. First, the Commission should allow retail sellers to carry over their excess long-term contract credit between compliance periods. Second, the Commission should sets its due date for annual RPS compliance reports at least 30 days after the California Energy Commission's ("CEC") reporting deadline. Finally, the Commission should clarify the rules regarding amendments to contracts executed prior to June 1, 2010 that are signed after June 1, 2010, including the treatment of any increased nameplate capacity or expected annual generation.⁷ These changes will provide retail sellers with increased flexibility to procure renewables in a way that is most efficient and least costly for their customers, lower administrative burdens, preserve the value of customers' investments in renewable resources, and enhance market certainty.

II.

THE PD PROPERLY ESTABLISHES A "SAFE HARBOR" FOR RETAIL SELLERS WHO PROCURED 14% RENEWABLES IN 2010

The transition between the 20% and 33% RPS programs is expressly dealt with in Public Utilities Code Section 399.15(a), which provides that "[f]or any retail seller procuring at least 14 percent of retail sales from eligible renewable energy resources in 2010, the deficits associated with any previous renewables portfolio standard shall not be added to any procurement requirement pursuant to this article." Correctly interpreting the plain language of this statutory provision, the PD concludes that "the safe harbor in effect wipes out all prior [annual procurement target ("APT")] deficits, no matter how large" and that "attaining the safe harbor ends the obligations of the retail seller under the prior APT requirements."⁸ The PD also

⁷ SCE has included revisions to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs of the PD as Appendix A.

⁸ PD at 19-20. *See also id.* at 87 (OP 9).

reasonably calculates eligibility for the “safe harbor” based on retail sellers’ actual RPS-eligible deliveries in 2010.⁹

The Legislature’s express language clearly intended to transition retail sellers into the new RPS program free of any deficits from the previous program, as long as they reached 14% renewables in 2010. In adopting the 14% “safe harbor,” the Legislature determined that customers who have already made substantial investments in renewable resources and will pay significant additional costs to meet the 33% goal of the new RPS program should not be required to pay the costs associated with making up any shortfall from the old RPS program. The PD appropriately captures the Legislature’s intent by determining that if a retail seller procured 14% renewables in 2010, the retail seller can move into the 33% RPS program with a clean slate.¹⁰

In addition to protecting customers from unnecessary and excessive costs, this interpretation of Public Utilities Code Section 399.15(a) allows for a much simpler and straightforward RPS program going forward. As the PD acknowledges, a drawn-out scenario that requires continued assessment under both the old and new RPS programs “is not consistent with either the legislative intent to close the books on 2010 and prior years or the efficient administration of the ongoing RPS program.”¹¹ The PD avoids this problem by allowing retail sellers to move into the new program based on one set of rules. For all these reasons, the PD’s establishment of a “safe harbor” for retail sellers who procured 14% renewables in 2010 should be adopted by the Commission.

⁹ *See id.* at 20-23.

¹⁰ This means that the retail seller has no deficits from the prior program to make up. It also means that the retail seller is not required to earmark any deliveries from 2011 or later years to make up for shortfalls incurred under the 20% program. Instead, those deliveries are available to count toward the 33% program.

¹¹ PD at 20.

III.

THE PD CORRECTLY DETERMINES THAT CONTRACTS EXECUTED PRIOR TO JUNE 1, 2010 COUNT IN FULL TOWARD THE NEW RPS PROGRAM

Public Utilities Code Section 399.16(d) states that “[a]ny contract or ownership agreement originally executed prior to June 1, 2010, *shall count in full towards the procurement requirements established pursuant to this article,*” provided certain conditions are met.¹² This protection for previously executed contracts was designed to ensure that renewable resource contracts that customers are already paying for receive full RPS credit under the new 33% RPS program, including the ability to bank such contracts across compliance periods.

SCE strongly supports the PD’s interpretation of Section 399.16(d). The PD properly concludes that none of the restrictions or conditions on procurement set by SB 2 (1x) apply to procurement from contracts executed prior to June 1, 2010. In particular, such contracts are not subject to the portfolio content categories or any new restrictions on the use of short-term contracts.¹³ Moreover, contracts signed prior to June 1, 2010 are not excluded from excess procurement that can be applied to subsequent compliance periods under Public Utilities Code Section 399.13(a)(4)(B), even if such pre-June 1, 2010 contracts are of less than 10 years in duration or would have counted toward the portfolio content category under Section 399.16(b)(3) if they had been executed after June 1, 2010.¹⁴

The PD’s reading of the statute complies with the plain words of Section 399.16(d). As the PD states, Section 399.16(d) provides that “[a]ny contract or ownership agreement originally executed prior to June 1, 2010, shall count in full towards *the procurement requirements established pursuant to this article.*”¹⁵ “[T]his article” is Article 16 of the Public Utilities Code –

¹² Emphasis added. *See also* Cal. Pub. Util. Code § 399.11(e)(3).

¹³ PD at 27-29.

¹⁴ *Id.* at 29-30.

¹⁵ Emphasis added.

the entire RPS statute.¹⁶ Thus, Section 399.16(d) makes clear that the Legislature intended contracts signed prior to June 1, 2010 to count in full toward the new RPS requirements without regard to all restrictions on procurement, not just without regard to the portfolio content categories. Indeed, “if the only application of section 399.16(d) were to allow procurement without regard to portfolio content categories, it would be superfluous.”¹⁷ Section 399.16(c) already states that the portfolio content category restrictions only apply to “contracts executed after June 1, 2010” so there would be no need for Section 399.16(d).¹⁸ In construing a statute, “[a] construction making some words surplusage is to be avoided.”¹⁹ Accordingly, the PD is correct that “the application of Section 399.16(d) must extend further than the portfolio content categories.”²⁰

Further, the PD ensures that customers’ pre-existing investments in renewable resources are protected. Contracts signed prior to June 1, 2010 represent a large investment made by customers under the RPS program rules in effect at that time, and the value of these resources would be significantly undermined if they were subject to new restrictions or could not be banked across compliance periods. Such a substantial change in the rules for executed contracts would also undermine the market certainty that is necessary for the RPS program to work effectively. The PD appropriately preserves the value of resources that customers have already paid for and ensures market certainty by determining that contracts or ownership agreements signed prior to June 1, 2010 count in full toward the 33% RPS program. These elements of the PD should be approved by the Commission.

¹⁶ PD at 28.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Conservatorship of Bryant v. Brown*, 45 Cal. App. 4th 117, 120 (1996) (citations omitted).

²⁰ PD at 28.

IV.

THE PD APPROPRIATELY GIVES RETAIL SELLERS A FULL 36 MONTHS TO RETIRE RECS

The PD correctly rejects arguments that RECs acquired in one compliance period must be retired in that period.²¹ As the PD notes, under Public Utilities Code Section 399.21(a)(6), retail sellers are explicitly given 36 months from the date of generation of the associated electricity to retire a REC.²² SCE agrees with the PD that requiring RECs to be retired in the compliance period in which they are acquired would be inconsistent with this express statutory language, as it would set a variable time limit on the retirement of RECs depending on when they are acquired.²³ For example, a REC associated with electricity generated in November 2013 would need to be retired by December 31, 2013, just one month after it was generated. That result would be wholly inconsistent with the Legislature giving retail sellers 36 months from the date of initial generation to retire a REC.

Indeed, the Legislature specifically rejected the notion that a REC must be retired in the period in which it was generated. An earlier version of Section 399.21(a)(6) in SB 722, the predecessor to SB 2 (1x), stated that “[n]o renewable energy credit shall be eligible for compliance with the renewables portfolio standard procurement requirement *unless associated with electricity generated during the same compliance period in which the credit is claimed by the retail seller or local publicly owned electric utility.*”²⁴ The Legislature deleted the italicized language in the August 31, 2010 version of SB 722 and replaced it with the same 36-month

²¹ *Id.* at 46-48.

²² *Id.* at 48.

²³ *Id.*

²⁴ SB 722 (August 20, 2010 version) (available at http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0701-0750/sb_722_bill_20100820_amended_asm_v91.html) (emphasis added).

period to retire a REC included in the current Section 399.21(a)(6).²⁵ The exact same 36-month language is what the Legislature approved in SB 2 (1x).²⁶

“The evolution of a proposed statute after its original introduction in the Senate or Assembly can offer considerable enlightenment as to legislative intent.”²⁷ “The Legislature’s omission of a provision from the final version of a statute which was included in an earlier version ‘constitutes strong evidence that the act as adopted should not be construed to incorporate the original provision.’”²⁸ Here, the Legislature specifically considered prohibiting RECs from one compliance period from being retired in another compliance period and rejected that restriction in favor of giving retail sellers 36 months to retire RECs. The PD’s determination that retail sellers may retire RECs acquired in one compliance period in a later period, so long as the retirement occurs within 36 months of the date of the generation associated with the REC, properly reflects the Legislature’s clear intent. As such, it should be adopted by the Commission.

V.

THE COMMISSION SHOULD ALLOW RETAIL SELLERS TO CARRY OVER EXCESS LONG-TERM CONTRACT CREDIT BETWEEN COMPLIANCE PERIODS

SCE generally supports the PD’s proposed minimum quantity requirements for long-term contracting in order to utilize short-term contracts to count toward RPS procurement quantity requirements. The Commission should, however, allow retail sellers to carry over excess long-term contract credit between compliance periods.

²⁵ SB 722 (August 31, 2010 version) (available at http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0701-0750/sb_722_bill_20100831_amended_asm_v90.html).

²⁶ Both the August 31, 2010 version of SB 722 and SB 2 (1x) provide that a REC shall not be eligible for the RPS “unless it is retired in the tracking system established pursuant to subdivision (c) of Section 399.25 by the retail seller or local publicly owned electric utility within 36 months from the initial date of generation of the associated electricity.”

²⁷ *People v. Goodloe*, 37 Cal. App. 4th 485, 491 (1995) (citations omitted).

²⁸ *WDT-Winchester v. Nilsson*, 27 Cal. App. 4th 516, 534 (1994) (citing *Central Delta Water Agency v. State Water Resources Control Bd.*, 17 Cal. App. 4th 621, 634 (1993)). See also *Stroh v. Midway Restaurant Systems, Inc.*, 180 Cal. App. 3d 1040, 1055 (1986).

In the previous RPS program, the Commission allowed retail sellers to carry forward contracted energy from long-term contracts in excess of the minimum quantity requirement in the year the contract was signed to meet the minimum quantity requirements in future compliance years.²⁹ The Commission recognized that retail sellers' contracting might not match the annual requirements of the prior minimum quantity requirement.³⁰ Moreover, the Commission reasoned that a carry-over mechanism would encourage retail sellers to enter into long-term contracts sooner rather than later.³¹

The PD concludes that banking of long-term contract credit is not needed for the new minimum quantity requirements because they will be calculated on a compliance period basis, rather than annually.³² SCE disagrees. Although basing the minimum quantity requirements on multi-year compliance periods provides retail sellers with some additional flexibility, there is still a potential mismatch between retail sellers' contracting needs and the time period of the minimum quantity requirements.

For instance, a retail seller who procured a substantial number of long-term contracts in the first compliance period (and/or before 2011), may not need to sign additional long-term contracts in the second compliance period. Nevertheless, that retail seller may have a need for a small amount of short-term deliveries to meet its procurement quantity requirement based on an unexpected project delay or unanticipated variations in existing generation. Without being able to carry forward its long-term contract credit, the retail seller would be required to sign an additional long-term contract that it does not need – obligating its customers for decades – in order to count the short-term deliveries toward RPS compliance. It is not in the best interests of the RPS program to impose such unnecessary costs on the retail seller's customers.

²⁹ See D.07-05-028 at 34 (OP 3).

³⁰ PD at 38.

³¹ D.07-05-028 at 17.

³² PD at 38-39.

Moreover, if the need for additional short-term deliveries does not arise until late in a compliance period, the retail seller may not be able to negotiate and execute another long-term contract in the time allowed. Even if the retail seller can execute a long-term contract it may have limited procurement options, resulting in a contract that is more costly for its customers than necessary and/or that provides less benefits to its customers.

Providing retail sellers with the ability to bank long-term contract credit across compliance periods will ensure that retail sellers execute a sufficient number of long-term renewable procurement contracts, while also giving retail sellers enough flexibility so that they can satisfy their RPS procurement quantity requirements in the most efficient manner and at the lowest cost to their customers. Additionally, as the Commission recognized in D.07-05-028, banking of long-term contract credit will also give retail sellers an incentive to execute long-term contracts sooner rather than later.

As the PD states, SCE agrees that retail sellers should not be able to carry forward long-term contract credit from before 2011 to the new program since the minimum quantity requirements under SB 2 (1x) are different than under the old program.³³ The PD should be revised, however, to allow such banking of excess long-term contract credit across compliance periods in the new 33% RPS program.

VI.

ANNUAL COMPLIANCE REPORTS SHOULD BE DUE AT LEAST 30 DAYS AFTER THE CEC'S REPORTING DEADLINE

The PD adopts annual RPS compliance reporting with reports due June 1 of each year.³⁴ SCE fully supports annual reporting intervals, but suggests that the reporting deadline be moved to at least 30 days after reports are due to the CEC, which would be July 1 with the CEC's current reporting due date.

³³ PD at 39.

³⁴ *Id.* at 68-69.

SCE originally proposed an August 1 reporting deadline to allow sufficient time for retail sellers to receive and retire Western Renewable Energy Generation Information System Certificates for the prior year's generation, including checking the accuracy of data and addressing needed corrections, report their procurement data to the CEC, and then prepare their RPS compliance report spreadsheets for the Commission. Although SCE still believes August 1 is the most logical reporting deadline, SCE urges the Commission to set its due date for annual compliance reports at least 30 days after the CEC's deadline. This will allow retail sellers to complete their CEC reports and then have sufficient time to incorporate this data into the Commission's reporting formats, thus assuring that the reports contain the most accurate information and minimizing the need for updates and corrections, and avoiding the administrative burden and difficulty of preparing two reports due on the same day.³⁵

VII.

THE COMMISSION SHOULD CLARIFY THE RULES REGARDING AMENDMENTS TO CONTRACTS SIGNED PRIOR TO JUNE 1, 2010

Public Utilities Code Section 399.16(d) provides that contracts or ownership agreements executed prior to June 1, 2010 shall "count in full" toward the procurement requirements established pursuant to the RPS if certain conditions are met. As mentioned in the PD, one of those conditions is that:

Any contracts or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource. The duration of the contract may be extended if the original contract specified a procurement commitment of 15 or more years.³⁶

Accordingly, a contract or ownership agreement signed prior to June 1, 2010 maintains its status as a contract that shall count in full toward RPS procurement requirements unless an

³⁵ SCE recommends the Commission set its reporting deadline at least 30 days after CEC reports are due and adjust its deadline accordingly if the CEC changes its reporting schedule.

³⁶ Cal. Pub. Util. Code § 399.16(d)(3).

amendment to the contract executed after June 1, 2010 increases the nameplate capacity, increases the expected quantities of annual generation, or changes the renewable energy resource. Moreover, a pre-June 1, 2010 contract retains its status even if the duration of the contract is extended, so long as the original contract has a term of 15 years or more.

Ordering Paragraph 10 of the PD states the requirements of Section 399.16(d)(3) as follows:

Retail sellers as defined in Public Utilities Code Section 399.12(j) may use contracts or ownership agreements for renewables portfolio standard (RPS) procurement signed prior to June 1, 2010 for all compliance purposes, so long as the contracts conformed to all applicable RPS requirements at the time they were signed, and *so long as any contract amendments or modifications occurring after June 1, 2010 to a contract that did not have an original duration of 15 years or more, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource*; and provided that any such contracts of investor-owned utilities (other than multi-jurisdictional utilities) were approved by the Commission even if that approval occurs after June 1, 2010.³⁷

The italicized language in Ordering Paragraph 10 suggests that the conditions on amending and modifying a contract executed prior to June 1, 2010 only apply to contracts that do not have an original duration of 15 years or more. That is not the case. Moreover, Ordering Paragraph 10 does not make clear that the duration of a contract that is signed prior to June 1, 2010 may be extended without eliminating its status as a pre-June 1, 2010 contract, so long as the contract had a duration of 15 years or more.

To maintain consistency with the statutory language in Section 399.16(d)(3), SCE recommends that the Commission make the following revisions to Ordering Paragraph 10:³⁸

Retail sellers as defined in Public Utilities Code Section 399.12(j) may use contracts or ownership agreements for renewables portfolio standard (RPS) procurement signed prior to June 1, 2010 for all compliance purposes, so long as the contracts conformed to all applicable RPS requirements at the time they were signed, and so long as any contract amendments or modifications occurring after

³⁷ Emphasis added.

³⁸ Similar revisions should be made to Conclusion of Law 11 of the PD as shown in Appendix A.

~~June 1, 2010 to a contract that did not have an original duration of 15 years or more,~~ do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource; and provided that any such contracts of investor-owned utilities (other than multi-jurisdictional utilities) were approved by the Commission even if that approval occurs after June 1, 2010. Retail sellers may extend the duration of contracts or ownership agreements signed prior to June 1, 2010 and still use them for all compliance purposes, so long as the original contract specified a procurement commitment of 15 or more years.

Additionally, the PD does not explain what happens if an amendment to a contract executed prior to June 1, 2010 occurring after June 1, 2010 increases the nameplate capacity or expected quantities of annual generation, or substitutes a different renewable energy resource. In the case of amendment that changes the renewable energy resource, SCE does not oppose the contract losing its status as a pre-June 1, 2010 contract since a change in resource type fundamentally alters the original contract. However, when an amendment merely increases the nameplate capacity or expected quantities of annual generation, SCE recommends that the Commission clarify that only the incremental increase in nameplate capacity or expected annual generation should lose its ability to count in full toward RPS procurement requirements without regard to the portfolio content categories, restrictions on excess procurement, and short-term contracting limitations. The original nameplate capacity and expected annual generation should retain its pre-June 1, 2010 status.

This is consistent with the language of Section 399.16(d)(3) and the Legislature's intent to preserve the value of customer investments in renewable energy that were made under then existing RPS compliance rules before SB 2 (1x) was enacted. The original capacity and expected annual generation that was under contract pursuant to the previous RPS program rules would retain its protected status. However, any additional capacity or generation that results from amendments executed after June 1, 2010 would be subject to the new program rules. This clarification will increase market certainty by providing clear rules on the effect of amendments to pre-June 1, 2010 contracts for all market participants. It will also protect customers' existing

investments in renewable resources, while ensuring that retail sellers cannot expand the generation from pre-June 1, 2010 contracts in contravention of statutory requirements.³⁹

VIII.

CONCLUSION

For all the foregoing reasons, the Commission should adopt the PD with the modifications discussed above and in Appendix A.

Respectfully submitted,

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May 14, 2012

³⁹ SCE has included revisions to Ordering Paragraph 10 and Conclusion of Law 11 of the PD to make this change in Appendix A.

VERIFICATION

I am a Manager in the Renewable and Alternative Power Department of Southern California Edison Company and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in the foregoing pleading are true.

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

Executed this 14th day of May, 2012, at Rosemead, California.

/s/ William V. Walsh

By: William V. Walsh

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Appendix A

SCE's Proposed Modifications to PD's Findings of Fact, Conclusions of Law, and Ordering Paragraphs

SCE's proposed revisions to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs of the PD are set forth below. Additions are shown in underline and deletions are shown in strikethrough.

Conclusions of Law

11. In order to conform to statutory requirements and preserve value for retail sellers and ratepayers, retail sellers should be allowed to use contracts for RPS procurement signed prior to June 1, 2010 for all compliance purposes, so long as the contracts conformed to all applicable RPS requirements at the time they were signed, and so long as any contract amendments or modifications occurring after June 1, 2010 ~~to a contract that did not have an original duration of 15 years or more,~~ do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource; and provided that any such contracts or ownership agreements of IOUs were approved by the Commission in accordance with standards for approval at the time the contracts or ownership agreements were approved, even if that approval occurs after June 1, 2010. Retail sellers may extend the duration of contracts or ownership agreements signed prior to June 1, 2010 and still use them for all compliance purposes, so long as the original contract specified a procurement commitment of 15 or more years. If a retail seller amends or modifies a contract signed prior to June 1, 2010 to increase the nameplate capacity or expected quantities of annual generation after June 1, 2010, then the incremental capacity and/or expected quantities of annual generation shall be subject to the rules for contracts signed after June 1, 2010.

27. In order to promote effective administration of the RPS program, each retail seller should be required to submit an annual RPS compliance report at least 30 days after the California Energy Commission's reporting deadline ~~by June 1 of the year following the year being reported on~~. The report should contain the information required by Section 399.13(a), as well as any

additional information required by this decision, or any other Commission decision, or requested by the Director of Energy Division.

28. The annual report submitted by a retail seller at least 30 days after the California Energy Commission's reporting deadline ~~by June 1 of the year~~ following the last year of a compliance period should include a separate section providing all the information required to determine compliance with all obligations for that compliance period, including portfolio balance requirements for any excess procurement applied from an earlier compliance period, as well to determine the amount, if any, of excess procurement in that compliance period that may be applied to a later compliance period.

35. Beginning in 2011, retail sellers may carry forward contracted energy in contracts of at least 10 years duration that is in excess of the 0.25% requirement for the compliance period in which such contracts are signed, to be used to meet the 0.25% requirement for future compliance periods, but may not carry forward to future compliance periods any deficit in meeting the 0.25% requirement.

Ordering Paragraphs

10. Retail sellers as defined in Public Utilities Code Section 399.12(j) may use contracts or ownership agreements for renewables portfolio standard (RPS) procurement signed prior to June 1, 2010 for all compliance purposes, so long as the contracts conformed to all applicable RPS requirements at the time they were signed, and so long as any contract amendments or modifications occurring after June 1, 2010 ~~to a contract that did not have an original duration of 15 years or more,~~ do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource; and provided that any such contracts of investor-owned utilities (other than multi-jurisdictional utilities) were approved by the Commission even if that approval occurs after June 1, 2010. Retail sellers may extend the duration of contracts or ownership agreements signed prior to June 1, 2010 and still use them for all compliance purposes, so long as the original contract specified a procurement commitment of 15 or more years. If a retail seller amends or modifies a contract signed prior to June 1, 2010 to

increase the nameplate capacity or expected quantities of annual generation after June 1, 2010, then the incremental capacity and/or expected quantities of annual generation shall be subject to the rules for contracts signed after June 1, 2010.

26. Each retail seller must submit an annual report on its compliance with the California renewable portfolio standard at least 30 days after the California Energy Commission's (CEC) reporting deadline~~by June 1 of the year following the year being reported on~~. The report must contain all the information required by Section 399.13(a), as well as any additional information required by this decision, or any other Commission decision, or requested by the Director of Energy Division. Any compliance report based on procurement information that has not been verified by the ~~California Energy Commission (CEC)~~ must be updated not later than 30 days after the CEC's transmittal of the final *Verification Report* for the relevant year to the Commission.

27. The annual report submitted by a retail seller at least 30 days after the California Energy Commission's reporting deadline~~by June 1 of the year~~ following the last year of a compliance period must include a separate section providing all the information required to determine compliance with all obligations for that compliance period, as well to determine the amount, if any, of excess procurement in that compliance period that may be applied to a later compliance period.

34. Beginning in 2011, retail sellers as defined in Public Utilities Code Section 399.12(j) may carry forward contracted energy in contracts of at least 10 years duration that is in excess of the 0.25% requirement for the compliance period in which such contracts are signed, to be used to meet the 0.25% requirement for future compliance periods, but may not carry forward to future compliance periods any deficit in meeting the 0.25% requirement.