



REAP

Renewable Energy Accountability Project
You REAP What You Sow.

April 2, 2009

Michael R. Peevey, President
California Public Utilities Commission
505 Van Ness Avenue, San Francisco, CA 94102

Re: Status of CPUC Enforcement of State RPS Requirements
for PG&E, Southern California Edison and SEMPR.

Dear Commissioner Peevey:

As President of the California Public Utilities Commission, you play an integral role in enforcing the regulations that Investor Owned Utilities (IOUs) must comply with in order to satisfy California's Renewable Portfolio Standard laws. (SB 107, SB 1078, and AB 32)

Recently, Governor Schwarzenegger issued Executive Order S-14-08, which raises California's renewable energy goals to 33% by 2020, and provides guidelines for removing red tape for renewable projects.

Executive Order S-14-08 has also focused public attention on the urgency of California achieving the current Renewable Portfolio Standard (RPS). The RPS as mandated in current law, requires IOUs by December 31, 2010 to procure 20% of the electricity they sell from clean renewable resources.

California's mandated RPS standards, and ongoing attempts in the Legislature to enhance RPS standards, are consistent with President Obama's stated goal of achieving 25% renewable electricity nationwide by 2025.

Recent reports indicate that California's principal IOU's, Pacific Gas and Electric, Southern California Edison and SEMPR, are struggling to meet the 20% RPS by 2010 mandated by law.

Clearly, it is in the public interest that the CPUC's rules for determining an IOU's compliance be readily accessible and transparent. The Commission should not allow lax compliance of our state's RPS laws and regulations. Discretionary waivers would betray California's fight against global warming; and fossil fuel dependence for electricity generation.

We believe it is vital that the CPUC immediately initiate an overall compliance procedure in which the rules for compliance are clearly and promptly established after input from the public and the utilities. Furthermore, these rules should put the utilities on notice that maximum fines will be automatic if there is no compliance.

Next year, the 2010 RPS deadline will be upon us, and Californians and the world will be looking to the CPUC and the California Energy Commission to see whether PG&E, SEMPR, and Southern California Edison were indeed obligated to meet the 20% RPS target mandated by law.

Particular attention will be focused on the CPUC as the agency of state government charged with issuing penalties for noncompliance against PG&E, Southern California Edison, and SEMPR.

An October, 2008 decision by the CPUC to allow IOUs to use unbundled renewable energy certificates – energy that has not been scheduled or delivered into California – to fulfill their RPS is one troubling example of a decision by the CPUC that is unevenly in favor of the utility industry. We are concerned that this decision may be the harbinger of other decisions to, in effect, create a permissive atmosphere of “grace period” exceptions for IOU’s, which fail to comply with the RPS law.

In the context of the procedure the Renewable Energy Accountability Project (REAP) respectfully requests that you please answer the attached questionnaire regarding the CPUC’s plans to enforce existing RPS laws and regulations.

REAP is a grassroots advocacy organization dedicated to ensuring energy independence and reducing global warming. In the spirit of transparency and education for our members, we post all our communications and responses thereto on our website, blogs, podcasts and printed newspaper ads.

We know you take these regulatory responsibilities on behalf of the public very seriously and trust you welcome this level of transparency.

Since California is the national leader in RPS goals, we are hopeful that the CPUC will proceed with appropriate vigor and oversight in requiring compliance. Thank you for your kind attention.

Sincerely,



Jim Gonzalez

Chair, Renewable Energy Accountability Project



S. David Freeman

Principal, Renewable Energy Accountability Project

Enclosure: REAP Questionnaire

Cc’s: Honorable Arnold Schwarzenegger, Governor of California

Honorable John Garamendi, Lieutenant Governor of California

Honorable Edmund G. Brown Jr., Attorney General of California

Honorable Darrell Steven Steinberg, President Pro Term of the State Senate of California

Honorable Karen Bass, Speaker of the State Assembly of California

Honorable Jeff Bingaman, United States Senate, Chair Energy and Natural Resources Committee

Honorable Martha M. Escutia, (Cal. State Senate, ret.), Partner, Manatt, Phelps & Phillips LLP

California Press



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Eight RPS Accountability Questions for CPUC Commissioners

1. Since December 31, 2010 is right around the corner how will the public know if the IOU's are in compliance? Will there be a 2009 progress report issued by the CPUC informing the public of whether the IOUs are on track to meet the 2010 RPS requirement?

Yes No

Comment: _____

2. Will the CPUC send out notices in 2009 to the IOUs involved in the 2010 RPS requirement, warning them of the deadlines and penalties?

Yes No

3. The CPUC administrative penalty for noncompliance with RPS laws is 5 cents per kWh, up to \$25 million per year. However, the CPUC has wide discretion to assess the fines to be imposed on IOUs for RPS non-compliance. If PG&E, SEMPR, or Southern California Edison do not meet the state's mandated RPS goals will you in fact impose the appropriate and maximum fines, as stated in CPUC regulations?

Yes No

Comment: _____

4. IOU's may maintain a procurement deficit for up to three years following the year in which the deficit is acquired. This has raised concerns that the CPUC will use this provision to allow the IOUs to bypass the fines. Will the CPUC still penalize noncompliant IOUs despite this provision?

Yes No

If yes, how quickly will the CPUC enforce the fines? _____



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5. Does the CPUC have regulations in place to prevent the IOUs from passing fines incurred for non-compliance on to ratepayers?

Yes No

If yes, how quickly will the CPUC enforce the fines? _____

6. Will you please assure us that signed contracts will not count towards compliance?

Comment: _____

7. Will you please assure us that short-term market purchases of green energy will not count towards compliance?

Comment: _____

8. Will you please provide a detailed definition of what qualifies as green power for compliance within the renewable portfolio standard.

Comment: _____



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