

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

**JOINT REPLY COMMENTS OF CALIFORNIA PACIFIC ELECTRIC COMPANY,
LLC (U 933-E), GOLDEN STATE WATER COMPANY ON BEHALF OF ITS BEAR
VALLEY ELECTRIC SERVICE DIVISION (U 913 E), AND PACIFICORP (U 901 E) ON
THE ORDER INSTITUTING RULEMAKING REGARDING IMPLEMENTATION AND
ADMINISTRATION OF THE RENEWABLES PORTFOLIO STANDARD**

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Division, and PacifiCorp

June 9, 2011

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Pursuant to Rule 6.2 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure and Ordering Paragraph 9 of the Order Instituting Rulemaking Regarding Implementation and Administration of the Renewables Portfolio Standard Program filed on May 5, 2011 (OIR), California Pacific Electric Company, LLC (U 933-E) d.b.a. Liberty Energy - California Pacific Electric Company (CalPeco), Golden State Water Company, through its Bear Valley Electric Service division (U 913 E) (BVES), and PacifiCorp (U-901-E), d.b.a. Pacific Power (PacifiCorp) (collectively, the small and multi-jurisdictional utilities (SMJUs)) hereby provide these reply comments on the OIR. The SMJUs maintain and reiterate that the Commission should provide an up-front determination in the Assigned Commissioner's Scoping Memorandum (Scoping Memo) describing certain renewables portfolio standard (RPS) requirements and exemptions for the SMJUs.¹

¹ See pending Sections 399.17 and 399.18 of the Public Utilities Code which describe the RPS requirements and exemptions applicable to the SMJUs. Unless otherwise noted, all subsequent section citations refer to the pending Public Utilities Code sections of Senate Bill No. 2 of the California Legislature's 2011-2012 First Extraordinary Session.

I. Up-Front Determination of Certain RPS Requirements for SMJUs

A. An Up-Front Determination Promotes Clarity and Efficiency.

Although the SMJUs were the only parties to list the topic to “Modify and Develop New Rules for Small and Multi-Jurisdictional Utilities” as a top priority, the Commission can provide clarity on this issue quickly without prejudicing any of the other parties in this proceeding. The SMJUs recommend that the Commission include in its Scoping Memo a determination about the straightforward applicability of RPS requirements for the SMJUs found in pending Sections 399.17 and 399.18 as well as an exemption from certain requirements applicable to other load serving entities (LSEs).² An up-front determination will provide regulatory certainty to the SMJUs allowing them to make informed procurement and planning decisions. Such a determination would not require additional comments, briefing, workshops or evidentiary hearings and can move the proceeding forward without impacting the Commission’s ability to address other topics in a timely matter and on the schedule parties are advocating. Therefore, other parties would not be hindered in obtaining resolution to topics and issues that they have deemed high priority items.³

Explicit statutory authority found in Senate Bill No. 2 of the California Legislature’s 2011-2012 First Extraordinary Session (SB 2x) describes the RPS requirements for the SMJUs. Specifically, Sections 399.17 and 399.18 clearly provide that for the SMJUs, “electricity products from eligible renewable energy resources may be used for compliance with the renewables portfolio standard procurement requirements *notwithstanding any procurement*

² CalPeco also requested in its Opening Comments that until pending section 399.17 goes into effect that it be considered a “small” utility for purposes of its RPS obligations.

³ It should be noted that the SMJUs discussed this position with the Division of Ratepayer Advocates (DRA) to inquire about their position on the SMJUs’ approach. DRA does not oppose the approach recommended by the SMJUs.

content limitation in Section 399.16.”⁴ Additionally, for CalPeco and PacifiCorp, “an eligible renewable energy resource includes a facility that is located outside California,” provided that certain requirements are satisfied.⁵ Finally, CalPeco and PacifiCorp may utilize different RPS planning requirements than other LSEs.⁶ By resolving the RPS requirements applicable to the SMJUs, which can be resolved without further proceedings up-front, the Commission will lay the RPS groundwork that applies to this select group of utilities and provide them with the regulatory certainty to enable them to satisfy RPS goals in the most effective manner.

Excusing the SMJUs from having to participate in portions of the proceeding in accordance with explicit statutory exemptions will also enable the proceeding to be more focused and efficient and reduce administrative costs that would be passed on to customers. Requiring all LSEs to participate in all aspects of this proceeding, regardless of whether all aspects of the proceeding will apply to the LSE, is inefficient and unnecessary. Instead, LSEs should only be required to participate in portions of the proceeding that apply to them. Additionally, proceeding phases and workshops should progress more efficiently and effectively if only those LSEs who are subject to the topics addressed in that phase or workshop are in attendance. Having unnecessary additional parties in attendance is likely to delay the proceeding and increase administrative costs for all parties involved.

B. Specific Recommendation for an Up-Front Determination

The SMJUs recommend that the Commission, in making this up-front determination, include the following simple declarative statement in its Scoping Memo addressing the applicability of RPS requirements for the SMJUs:

⁴ Section 399.17(b), emphasis added. *See also* Section 399.18(b).

⁵ Section 399.17(b).

⁶ *See* Section 399.17(d).

California Pacific Electric Company, LLC (CalPeco) and PacifiCorp will be subject to RPS compliance and reporting obligations as specified in pending Section 399.17 of the Public Utilities Code. Bear Valley Electric Service (BVES) will be subject to RPS compliance and reporting obligations as specified in pending Section 399.18 of the Public Utilities Code. Pursuant to pending Sections 399.17 and 399.18 of the Public Utilities Code, the Commission hereby exempts BVES, CalPeco, and PacifiCorp from the requirement to procure renewable generation pursuant to the procurement content limitations of pending Public Utilities Code Section 399.16. Accordingly, BVES, CalPeco, and PacifiCorp are excused from participating in portions of this proceeding relating to establishing procurement content limitations.

Additionally, to clarify the RPS requirements for CalPeco and PacifiCorp, the Scoping Memo should state:

For CalPeco and PacifiCorp, an eligible renewable energy resource includes a facility that is located outside California if the following conditions are met:

- (1) Any Renewable Energy Credits allocated to the California customers of CalPeco or PacifiCorp may not be used to fulfill renewable energy procurement requirements in other states.
- (2) CalPeco and PacifiCorp participate in, and comply with, the Western Renewable Energy Generation Information System.
- (3) The California Energy Commission verifies that the electricity generated by the facility is RPS-eligible.

Finally, the Scoping Memo should provide:

Until such time as Section 399.17 goes into effect, CalPeco will be considered a “small” utility for the purposes of its RPS obligations.

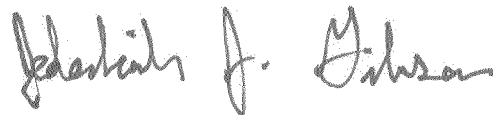
This recommended language is consistent with pending Sections 399.17 and 399.18 and will help clarify what resources can be utilized by the SMJUs to meet RPS requirements. It will also help the SMJUs determine which portions of the proceeding in which they are required to participate.

II. Conclusion

The SMJUs appreciate this opportunity to provide reply comments on the OIR and look forward to working with the Commission and stakeholders to refine the RPS program. As described herein, the Commission should recognize the explicit statutory authority that provides for different RPS procurement requirements for the SMJUs and make an up-front determination in its Scoping Memo about the applicability of RPS requirements for SMJUs.

Dated: June 9, 2011

Respectfully submitted,



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