

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue	)	
Implementation and Administration of California	)	Rulemaking 07-05-025
Renewables Portfolio Standard Program	)	(Filed May 24, 2007)
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**COMMENTS OF THE  
POWER AND WATER RESOURCES POOLING AUTHORITY  
ON THE EX PARTE DOCUMENT**

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July 8, 2011

Attorneys for the Power and Water  
Resources Pooling Authority

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In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (Commission) and the *Administrative Law Judge's Ruling Authorizing Formal Comments on Ex Parte Document* (ALJ Ruling), dated July 1, 2011, the Power and Water Resources Pooling Authority (PWRPA) respectfully submits these comments.

The Federal Executive Agencies (FEA) filed a notice of *ex parte* communication on June 30, 2011, that included an attachment (FEA Document) containing FEA's proposed wording changes to the findings of fact, conclusions of law, and ordering paragraphs for the Proposed Decision (PD) issued in this proceeding. The ALJ's Ruling states that the FEA Document is outside the Commission's Rules of Practice and Procedure for comments on the PD, and in the interest of fairness, the ALJ has requested that parties provide one round of formal comments on the FEA Document and its proposed changes to the PD.

PWRPA has appeared before the Commission on several occasions to address issues related to the delivery of energy by the Western Area Power Administration (WAPA) to preference power customers, specifically, PWRPA and its participants.<sup>1</sup> Here, PWRPA does not purport to speak for WAPA, but only addresses those matters directly affecting PWRPA. The FEA Document suggests the following Conclusion of Law 3: "WAPA is a 'marketer' as

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<sup>1</sup> See, e.g., D.06-05-018.

defined in Section 331 of the Public Utilities Code, and is an 'other provider' as defined in Section 365.1(a)." PWRPA does not take a position on FEA's pending petition for modification, nor on the Proposed Decision, but PWRPA does object to FEA's suggested Conclusion of Law 3. This conclusion implicates a host of issues. The record in this proceeding is devoid of facts sufficient to allow the Commission to conclude that WAPA is a "marketer" and "other provider." Such a conclusion could potentially have broad implications for parties other than FEA. Moreover, such a conclusion is unnecessary to reach the outcome FEA seeks with its suggested edits to the Proposed Decision.

For the reasons stated above, PWRPA requests that the Assigned Commissioner and Administrative Law Judge not modify the Proposed Decision to incorporate FEA's suggested Conclusion of Law 3.

Dated: July 8, 2011

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'RB', with a large, stylized flourish extending to the right.

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