BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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

DIVISION OF RATEPAYER ADVOCATES' COMMENTS ON IMPLEMENTATION OF NEW PORTFOLIO CONTENT CATAGORIES FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM

MATT MILEY
Staff Counsel

Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-3066
Email: matt.miley@cpuc.ca.gov

YULIYA SHMIDT
IAIN FISHER
Regulatory Analysts

Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: 415-703-2719
Email: ys2@cpuc.ca.gov

August 8, 2011

458314

I. INTRODUCTION

The Division of Ratepayer Advocates (DRA) respectfully submits these Comments pursuant to the July 12, 2011 Administrative Law Judge (ALJ) Ruling[1] requesting party comments on the implementation of new "portfolio content categories" for the California renewables portfolio standard (RPS) program pursuant to certain amendments to Public Utilities Code §399.16 per Senate Bill (SB) 2 1X. DRA's comments follow the structure established in the ALJ's Ruling. To the extent DRA does not have a recommendation on a particular issue listed in the Ruling, it has been specifically indicated below, while reserving the right to address these issues in reply comments.

II. DISCUSSION OF SPECIFIC ISSUES

DRA offers the following responses to the questions posed by the July 12, 2011 Ruling:

1) *Section 399.16(b)(1) describes "eligible renewable energy resource electricity products" that meet certain criteria. "Electricity products" is not defined in the statute. Should this term be interpreted as meaning "RPS procurement transactions"?*

DRA agrees that "electricity products" should be interpreted as meaning "RPS procurement transactions."

2) *Should the first sentence of § 399.16(b)(1)(A) be interpreted as meaning: "The RPS-eligible generation facility producing the electricity has a first point of interconnection with a California balancing authority, or has a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or the electricity produced by the RPS-eligible generation facility is scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source."*

---

[1] *Administrative Law Judge's Ruling Requesting Comments on Implementation of new Portfolio Content Categories for the Renewables Portfolio Standard Program*, June 27, 2011 (July 12, 2011 Ruling or Ruling), p. 3.

DRA agrees with the above clarification on the first sentence in §399.16(b)(1)(A).

3) *Please provide a comprehensive list of all "California balancing authorit[ies]" as defined in new § 399.12(d).*

DRA does not currently have a position as to what constitutes an exhaustive list of California Balancing Authorities and believes that energy developers and the investor-owned utilities (IOUs) are best placed to make this determination based on standard industry practices.

4) *How should the phrase in new §399.16(b)(1)(A) "[Eligible renewable energy resource electricity products that are]. . . scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source" be interpreted? Please provide relevant examples.*

DRA believes that both the intent and language of this statutory provision are clear. The statute requires that, in order to qualify in this category of eligible resource transaction, the electricity and the associated renewable energy certificate (REC or e-tag) should be identifiable as both (1) originating at the same source, and (2) as being scheduled to the point of interconnection as close to simultaneously as is technically and economically feasible.

5) *Does the inclusion of transactions characterized in #4, above, subsume or resolve the work done by Energy Division staff and the parties in response to Ordering Paragraph 26 of Decision (D.) 10-03-021, regarding transactions using firm transmission?*

The work by Energy Division staff and parties in response to ordering paragraph 26 of Decision (D.) 10-03-021 was never completed.[2] Consequently, any previous work

---

[2] D.10-03-021, p. 103, Ordering Paragraph 26:

> The Director of Energy Division shall take appropriate steps to obtain information that will enable a definitive determination of how to classify transactions for RPS procurement that include firm transmission arrangements but not dynamic transfers to a California balancing authority and will allow the development of criteria for reviewing and evaluating such contracts that are presented for Commission approval. The Director of Energy Division may also, in the Director's discretion, provide recommendations to the Commission about the classification and evaluation of such transactions. Such recommendations may be in the form of a report, or in the form of a resolution prepared for the Commission's consideration.

regarding transactions using firm transmission should be considered irrelevant to the instant proceeding and be superseded by any determination made herein.

Again, the following language of the new Public Utilities Code §399.16(b)(1)(A), as amended per SB 2 1X, was written to clearly convey legislative intent regarding the transaction type at issue: "Eligible renewable energy resource electricity products that . . . are scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source." (emphasis added) This language makes clear that firm transmission is necessary in order to qualify in this category of eligible resource transaction under §399.16(b)(1)(A).

The attached matrix (Attachment A – RPS Product Matrix) describes a reference proposal of issues that many of the parties in this proceeding agreed and disagreed on in a meeting held on July 28, 2011. Parties that participated in the meeting are attaching the same matrix to their comments, but are free to point out areas of disagreement. As the matrix indicates, many parties agreed that no specific transmission rights are necessary to qualify in the above described category of eligible resource transaction (identified in matrix as Bucket #1(c) transaction).[3] However, DRA's position is that firm transmission rights are necessary for out-of-state projects to satisfy the above statutory language regarding this transaction type.

6) *How would transactions characterized in #4, above, be tracked and verified? Please address the roles and responsibilities of both the CEC and the Commission.*

The new §399.25 established by SB 2 1X appears to set the same role for the CEC as it had before; namely, to certify new renewable facilities and track and verify renewable deliveries. This CEC role could logically include transactions of the type described in #4 above. Unless a compelling reason is presented to do otherwise, DRA suggests that administrative costs be kept low by retaining as much of the previous

[3] See Attachment A, p. 5, "Bucket #1(c)".

structure as possible. Such consistency would likely decrease some of the "seams" issues that have come up in the transition between the 20% and 33% regimes.

7) *Please provide relevant examples of the situation described in the second sentence of § 399.16(b)(1)(A):*

"The use of another source to provide real-time ancillary services required to maintain an hourly or sub-hourly import schedule into a California balancing authority. . ."

How should the subsequent qualifying phrase, "but only the fraction of the schedule actually generated by the eligible renewable energy resources shall count toward this portfolio content category" be interpreted in light of your response? Please provide relevant examples.

DRA does not have a position on the technical aspects of scheduling the type of resources described in this statutory provision, but does emphasize that only renewable megawatt-hours can be used for RPS compliance and only those appropriate to each bucket should be counted in that bucket. The Commission should provide clarity regarding the buckets into which the two types of MWhs involved in this example fall so that scheduling coordinators are able to make the most appropriate choices given their RPS compliance obligations. The goal of the instant proceeding should be to reduce regulatory uncertainty as much as possible and avoid any ex post arbitration that may be necessary on the part of the Commission.

8) *Should § 399.16(b)(1)(B) be interpreted as meaning:*

"The RPS-eligible generation facility producing the electricity has an agreement to dynamically transfer electricity to a California balancing authority."

DRA agrees with the above clarification in the language of the legislation.

9) *The phrase "unbundled renewable energy credit" (REC) is not defined in the statute. Should it be interpreted as meaning:*

"a renewable energy credit [as defined in new § 399.12(h)] that is procured separately from the RPS-eligible energy with which the REC is associated"?

DRA agrees with the above clarification in the language of the legislation.

10) "Unbundled renewable energy credits" are a type of transaction meeting the criteria of § 399.16(b)(3). Does § 399.16(b)(1) include any transactions that transfer only RECs but not the RPS-eligible energy with which the RECs are associated (for example, a transaction in which an RPS-eligible generator having a first point of interconnection with a California balancing authority sells unbundled RECs to a California retail seller)? Why or why not?

If your response is that unbundled REC transactions are or may be included in § 399.16(b)(1), please also address how a particular transaction can be characterized and verified as belonging in a particular portfolio content category.

No, DRA opposes the notion that any unbundled RECs, even in-state unbundled RECs, meet the criteria of the new §399.16(b)(1) category (Bucket 1). Bucket 1 resources are in-state, have a first point of interconnection with a California Balancing Authority, or are able to deliver to the state without displacing any other electricity.

11) Section 399.16(b)(3) includes "[e]ligible renewable energy resource electricity products, or any fraction of the electricity generated, including unbundled renewable energy credits, that do not qualify under the criteria of paragraph (1) or (2)."

- *Should the phrase, "or any fraction of the electricity generated" be interpreted as meaning "any fraction of the electricity generated by the eligible renewable energy resource"?*

DRA agrees with the above interpretation of the language in the legislation.

- *What metrics should be used to account for "any fraction of the electricity generated?" Please address the time period that may be encompassed in your response.*

A measurement of the fractional component of generated electricity should occur at the finest scale that is economically and technically feasible either in hourly or sub-hourly increments. Such a precise measurement will maximize the system's flexibility and its ability to adapt to current and future compliance scenarios.

- *How would the procurement of "any fraction of the electricity generated" be documented? Please address the roles of the Western Renewable Energy Generation Information System (WREGIS), the CEC, and this Commission.*

DRA currently holds no position on the relative role of different agencies, but reserves the right to comment in the future.

[The following two questions (#12 & #13) are addressed concurrently.]

12) "Firmed" is not defined in SB 2 (1x). Please provide a definition or description of this term. Please include relevant examples.

13) "Shaped" is not defined in SB 2 (1x). Please provide a definition or description of this term. Please include relevant examples.

SB 2 1X's use of the term "firmed and shaped" will likely be the source of a fair amount of disagreement amongst parties. One definition would be a link between a brown power contract and a renewable contract wherein (1) the brown power is used to improve the reliability of a renewable intermittent facility – the "firming," and (2) the brown power is used to fill in gaps in the production profile of the renewable intermittent facility to create a block of energy – the "shaping."

However, a closer look at the possible permutations of such a structure reveals that the delivered block of energy, for example, can take many forms. For example, the block of energy can be delivered year-round as a consistent stream. In contrast, a wind facility which produces unevenly year-round would result in periods where the delivered block of energy is all brown power. A utility may very well want the amount of brown power imported by the utility into California to be roughly the same as the number of RECs the wind facility is generating. Then, the block of energy imported would not be "filling in the gaps" of the wind facility's production profile. It would be a consistent but small stream throughout the year.

The block of energy could also be delivered at a time the utility needs the energy most; perhaps as a large block in July and August and then nothing at all for the remaining ten months of the year. These examples illustrate ways in which the brown power import could be temporally disconnected from the production of the renewable facility and still plausibly be called "shaped." There are other ways the brown power facility could be meaningfully disconnected from the renewable facility. The brown power facility may be physically very far from the renewable resource. For example, a

wind farm in Montana could be "firmed and shaped" by a fossil power plant at the Nevada border.

Unfortunately, the many permutations of "firming and shaping" make it impossible to draw a line between a brown power contract clearly tied to a renewable facility – seasonally, geographically, and temporally – and one which is disconnected from the renewable resource in every meaningful way. Although DRA is open to hearing proposals of specific ways to define "firmed and shaped," DRA suggests that the only straightforward and clearly enforceable mechanism is to define "firmed and shaped" as any green renewable resource that is e-tagged to a brown power import. For example, the utility could specify which brown power import it plans to associate with a renewable contract in its formal request for approval of such a contract. Or, even that requirement could be waived and the utility only be mandated to e-tag the brown power when it is imported.

14) "Incremental electricity" is not defined in SB 2 (1x). Please provide a definition or description of this term. Please also address:

- *how a particular transaction can be characterized as providing incremental electricity;*
- *whether there are or should be any more particular relationships between the generation of the RPS-eligible electricity and the scheduling of the "firmed and shaped" incremental electricity into a California balancing authority (for example, the electricity must be scheduled into a California balancing authority within one month of its generation; or, the energy that is delivered must come from generators in the same balancing authority area as the RPS-eligible generation).*
- *whether the definition proposed is based on contract terms or on the characteristics of the electricity that is ultimately delivered into a California balancing authority.*

Please provide relevant examples.

DRA does not have a specific suggestion – in terms of number of years or months – regarding how an RPS transaction must be executed within a brown power transaction in order to qualify as "incremental." It is difficult to articulate a definition of incremental

deliveries in light of the fact that utilities have many ongoing brown power delivery contracts which are often being renewed. DRA does suggest, however, that the intent of SB 2 1X is clearly that some sort of showing of the incremental nature of the brown power be made. Importantly, whatever standard is established to demonstrate the incremental showing must be clear and non-ambiguous. One example may be a requirement that the brown power contract be signed no more than three years before or after the RPS transaction, or that the brown power come online (either as a new facility coming online or a new contract beginning deliveries) within three years of the renewable facility coming online. Since the brown power contract would be submitted for approval with the RPS contract, the brown power can be assumed to be incremental.

In tension with the need for a clear definition and appropriate determination of legislative intent regarding the notion of "incremental" is the need to keep ratepayer costs low by not overly restricting the utilities in their brown power purchases. The creation of artificial requirements for these brown power contracts has the potential to drive up prices, restrict the number of private parties that can deliver that specific product, and reduce competition.

15) Should § 399.16(b)(2) be interpreted to refer only to energy generated outside the boundaries of a California balancing authority, or may it refer also to energy generated within the boundaries of a California balancing authority? Please provide relevant examples.

- *Should this section be interpreted as applying only to transactions where the RPS-eligible generation is intermittent? Is the location of the generator within or outside of a California balancing authority area relevant to your response?*

DRA interprets §399.16(b)(2), Bucket 2, as applicable to any renewable energy products that qualify for that Bucket 2 but not Bucket 1. Bucket 2 is for out-of-state resources that are firmed and shaped. In short, if a product satisfies the requirements of §399.16(b)(2), but does not satisfy §399.16(b)(1), irrespective of location or intermittency, the product should fall into Bucket 2.

16) Should the requirement in § 399.16(b)(1)(A) that the generation must be "scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source" be interpreted to mean that no firmed and shaped electricity, as set forth in § 399.16(b)(2), may be considered as meeting the requirements of § 399.16(b)(1)(A)? Please provide relevant examples.

DRA agrees with the statement that no firmed and shaped electricity, as set forth in §399.16(b)(2), should be considered as meeting the requirements of §399.16(b)(1)(A). DRA views "Bucket 1" as applicable only to bundled – not re-bundled – renewable energy. Thus, any transaction that seeks to join unbundled RECs and unbundled electricity is by definition not eligible for inclusion under § 399.16(b)(1).

17) Section 399.16(d) provides that:

"Any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full towards the procurement requirements established pursuant to this article, if [certain] conditions are met. . ."

- *How should the phrase "ownership agreement" be interpreted in this context? Please provide relevant examples.*
- *How should the phrase "count in full" be interpreted? Include consideration of:*

  a) The requirements in D.07-05-028 (implementing current § 399.14(b)) that, in order for procurement from a short-term contract with an existing facility to count for RPS compliance, a minimum quantity of contracts longer than 10 years and/or contracts with new facilities must be signed in the same year as the short-term contract sought to be counted;

  b) The requirement in new § 399.13(b) for minimum procurement from contracts of at least 10 years' duration;

  c) The restrictions set out in new § 399.13(a)(4)(B) on the use of procurement from contracts of less than 10 years' duration and on procurement meeting the portfolio content of § 399.16(b)(3) in accumulating excess procurement that can be applied to subsequent compliance periods.

Given the need for regulatory certainty for the functioning of the renewable market, DRA recommends that no new rules be applied retroactively. Short-term RPS contracts executed prior to June 1, 2010 should be treated under the old rules for short-

term contracts. The only exception that may be appropriate is for contracts executed prior to June 1, 2010 that contain subsequent amendments. In that case, the contract may reasonably be viewed as re-executed and subject to the new rules.

18) Please discuss the relationship between the instruction in § 399.16(d), set forth above, and the rules for the use of tradable RECs (TRECs) set out in D.10-03-021 (as modified by D.11-01-025), and in D.11-01-026 (for example, temporary limits on TRECs usage; application of the temporary TREC limits to previously signed contracts).

As stated in DRA's response to #17, the need for regulatory certainty requires that contracts executed under the old rules be allowed to function under those rules. Therefore, the rules and restrictions contained in D.10-03-021 should be applied to those contracts which were signed under that regime and the rules and restrictions mandated by SB 2 1X should be applied to those contracts executed after June 1, 2010 as the legislation requires.

19) When should the portfolio content limitations set forth in § 399.16(d) go into effect (for example, January 1, 2011; or the effective date of SB 2 (1x); or the date of the Commission decision implementing § 399.16)?

DRA recommends that an appropriate date for the portfolio content limitations to go into effect would be the date of the Commission decision in this proceeding. That way, all parties will have knowledge of the Commission's expectations of the transactions they are entering into. The utilities are actively negotiating and signing contracts right now. It is reasonable that those contracts operate under the current established rules, and that new rules apply to contracts executed after those rules are voted on by the Commission.

20) SB 2 (1x) amends Pub. Res. Code § 25741 to, among other things, eliminate the current requirement that RPS-eligible energy must be "delivered" to end-use retail customers in California. The requirement for delivery is implemented by the CEC in its Renewables Portfolio Standard Eligibility Guidebook (RPS Eligibility Guidebook) *(3d ed. December 19, 2007). It is also incorporated into the characterization of a REC in D.08-08-028.*

- *At what point in time should the Commission consider the "delivery" requirement ended (e.g., on the effective date of SB 2 (1x); or as of*

January 1, 2011; or on the effective date of the CEC's revisions to the RPS Eligibility Guidebook *reflecting the repeal)?*

For administrative simplicity the "delivery" requirement should end for new contracts that are entered into after the CEC's revisions to the RPS Eligibility Guidebook.

- *Does the "delivery" requirement end at that time for generation under RPS contracts of utilities that were already approved by the Commission? Only for generation under contracts signed by utilities after the end of the delivery requirement?*

See the above response.

- *How should the plan you propose be applied to ESPs? to CCAs?*

DRA has no position on the application of proposed plans to either ESPs or CCAs.

21) What documentation or descriptions should be required in an advice letter to enable Energy Division staff to confirm the portfolio content category of transactions submitted by utilities for Commission approval?

DRA will defer to the utilities to speak to the technical documentation that may be necessary. However, DRA emphasizes that it is important that the Commission establish as clear a set of guidelines as possible. Hopefully the utilities will provide a specific list of documents needed to make a showing of the bucketness – the appropriate bucket categorization – of any contract, and provide assurance that those documents can be submitted and reviewed relatively easily and quickly. Given that 33% RPS will require a large number of transactions, with each needing approval from the CPUC, regulatory certainty should be assured as much as possible.

22) Is any post-contracting verification of the portfolio content category needed to track and determine compliance with RPS procurement obligations for utilities? for ESPs? for CCAs? If yes, is the CEC responsible for undertaking it? is this Commission?

DRA believes that the CPUC should maintain its role and right to audit utilities following verification. However, the Commission's authority to conduct a compliance review should not preclude a thorough review of the current processes the utilities use to show and verify RPS compliance before the Commission. Potential improvement in

verification accuracy, for example sub-hourly or hourly 'true-ups' between RECs and delivered energy, will better reflect market demand and behavior and could ultimately reduce administrative burden as the system becomes less ambiguous.

- *What information would be required for such verification?*

DRA believes that it is more appropriate to address this question in response to the verification and compliance ruling issued July 15, 2011.[4]

- *Would any changes be needed to WREGIS to accommodate your proposal?*

DRA currently holds no position on whether changes will be necessary to WREGIS to accommodate any possible modifications.

> *23) Reviewing your proposals above, please describe the value to the buyer, the seller, and ratepayers of transactions in each portfolio content category. Identify the direct and indirect costs that would be associated with transactions in each category.*

The value of Bucket 3 transactions (those which fall under § 399.16(b)(3)) to ratepayers rests in their ability to comply with the RPS. That ratepayer value may in itself be worthwhile and there is a role such transactions play in a utility's overall portfolio. DRA supports allowing the utilities the flexibility to keep costs down by entering into a variety of contracts to meet their RPS obligations. There do not appear to be indirect costs, such as transmission or integration, associated with such transactions. Since the Bucket 3 resources are located in the area of another balancing authority, that balancing authority is responsible for the transmission necessary to bring the facility online as well as the integration services needed for intermittent resources.

Bucket 1 transactions have value both for RPS compliance and meeting customers' energy needs. These transactions do have indirect costs, however, including unaccounted-for transmission upgrade and integration costs.

---

[4] A*dministrative Law Judge's Ruling Requesting Comments on New Procurement Targets and Certain Compliance Requirements for the Renewables Portfolio Standard Program*, July 15, 2011.

Bucket 2 resources bring some energy benefit to ratepayers in the form of incremental energy deliveries and also deliver RPS-eligible energy which serves ratepayers by complying with state mandates. The indirect costs of Bucket 2 resources include the costs of the incremental brown power needed to qualify for Bucket 2. It is possible that the incremental brown power needed to firm and shape Bucket 2 resources will not be more expensive than imports the utilities would have had to purchase regardless.

> *24) The First Extraordinary Session of the Legislature is still in session. Because SB 2 (1x) becomes effective 90 days after the end of this special session, the provisions of SB 2 (1x) will not be in effect until mid- October 2011, at the earliest, and the end of 2011, at the latest. Please review your proposals and identify any issues of timing that should be addressed. Should the Commission simply carry forward the existing RPS rules through calendar year 2011? Why or why not?*

DRA prefers to reduce the administrative burden and recommends that the provisions of SB 2 1X come into effect at the beginning of calendar year 2012.

III. CONCLUSION

For the reasons discussed above, the Commission should adopt DRA's recommendations contained herein.

Respectfully submitted,

/s/ MATT MILEY

Matt Miley
Staff Counsel

Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-3066
Email: matt.miley@cpuc.ca.gov

August 8, 2011

Appendix A

Note: The following table was produced by a broad group of stakeholders in order to develop a common conceptual framework for discussing the RPS Product Content Requirements, identifying where stakeholder consensus exists, and allowing individual commentsto focus on the identified open issues in the last column. The following stakeholders participated in discussions regarding this table and its refinement based on those discussions: Coalition of California Utility Employees; Division of Ratepayer Advocates; enXco; First Solar; Iberdrola; Independent Energy Producers Association; Large-Scale Solar Association; NextEra; Pacific Gas and Electric Company; San Diego Gas and Electric Company; Southern California Edison; Sunpower; The Utility Reform Network; and the Union of Concerned Scientists.

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
What Procurement is Affected?	*399.16(c)* *"eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010"*	"bundled purchase" means the purchase of RPS-eligible energy plus the associated Renewable Energy Credit (REC) "unbundled REC" means the REC associated with the RPS-eligible energy separate from the associated energy	(1) Contract amendments or modifications occurring after June 1, 2010 unless such amendment or modification is grandfathered under the provisions set forth in 399.16(d)(3); (2) New contracts with existing facilities (i.e., recontracting) after June 1, 2010, unless such contract is grandfathered under the provisions set forth in 399.16(d)(3); (3) Any contract executed under an approved IOU Photovoltaic PPA program after June 1, 2010; (4) Engineering, Procurement and Construction or Build Own Transfer	

For Reference and Discussion Purposes Only: Information contained herein does not necessarily reflect the views of any party.

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
			contracts for renewable utility owned generation (UOG) executed after June 1, 2010; (5) Any Feed in Tariff contract (ie., AB 1969, SB 32, Renewable Auction Mechanism, etc.) executed after June 1, 2010; (6) Any enrollment in the IOU net energy metering (NEM) program for surplus distributed generation (i.e., including but not limited to participants in California Solar Initiative and Self-Generation Incentive Program) after June 1, 2010. (7) Bilaterally-negotiated transactions after June 1, 2010; (8) Any new renewable energy resource contract executed after June 1, 2010, including purchases of unbundled RECs associated with generation under any of the above contract structures.	

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
Bucket #1(a)	***399.16(b)(1)(A): [addressing point of interconnection of facility]*** *"Have a first point of interconnection with a California balancing authority"*	Facility must be an eligible renewable energy resource located within the WECC and Facility must be directly interconnected to a California Balancing Authority (CBA). CBAs include CAISO, LADWP, TID, IID, and Balancing Authority of Northern California (formerly SMUD). □ Any transaction for a product from an eligible renewable generator physically connected to any CBA □ Any transaction for a product from an eligible renewable generator located outside of a CBA, but which directly interconnects to a CBA through a gen-tie. □ "gen-tie" means an electrical conductor directly connecting the generation unit to a CBA	□ Bundled procurement from eligible renewable generator physically connected to any CBA, including utility-owned generation (UOG) □ NEM surplus sales	□ Should the CPUC establish a standard in advance for identifying future or additional CBAs now, or should that process wait until there is some change in the current CBA lineup?
Bucket #1(b)	***399.16(b)(1)(A): [addressing point of interconnection of facility]***	Facility must be an eligible renewable energy resource located within the WECC and Facility must be directly interconnected to the distribution system	□ Bundled procurement from distributed generation facility interconnected at distribution level of any CBA, including UOG	□ Do RECs associated with generation within a CBA area that serves load "behind-the-meter" (ie.,

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
	"[*H*]*ave a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area…*"	located within a CBA's area. ☐ Any transaction for a product from an eligible renewable generator physically connected to distribution facilities serving end use customers in a CBA. ☐ Any transaction for a product from an eligible renewable generator located outside of a CBA, but which directly interconnects to a CBA's distribution facilities through a gen-tie. ☐ "gen-tie" means an electrical conductor directly connecting the generation unit to a CBA	☐ NEM surplus sales	CSI/NEM or industrial RPS generation serving on-site load) qualify as Bucket 1 if they are sold (unbundled) to a (1) the retail seller that is also buying the energy, or (2) another RPS-obligated retail seller? ☐ In general, should the "bucket" attribute of a REC remain with the REC until it is retired for compliance, no matter how many times it is traded as an unbundled product in the secondary market? If so, how can the bucket attribute of a REC best be tracked?

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
Bucket #1(c)	***[399.16(b)(1)(A): re specific types of commercial transactions]*** *"... or are* ***scheduled*** *from the eligible renewable energy resource into a California balancing authority* ***without substituting electricity from another source****. The use of another source to provide real-time ancillary services required to maintain an hourly or subhourly import schedule into a California balancing authority shall be permitted, but only the fraction of the schedule actually generated by the*	☐ Energy must be scheduled to a CBA from an eligible renewable energy resource ("ERR") located within the WECC and documented using E-tag information for generator source and delivery sink. ☐ Schedule into the CBA may be day-ahead, hourly, or sub-hourly. ☐ No specific transmission rights are required. ☐ Only the lesser of ERR metered-data and the final adjusted E-tags is eligible as "Bucket 1(c)". ☐ Import schedules may be firmed within the hour through the use of ancillary services markets, including intra-hour balancing services.	☐ Generator located in the Pacific Northwest schedules 100 MWh into CAISO over time period X. In that time period, generator meter data shows generation of 90 MWh, and final adjusted E-Tags show delivery of 100 MWh. Retail seller will receive 90 MWh of Bucket 1(c) credit from this resource over this time period. ☐ Over time period Y, Generator scheduled 100 MWh, but 110 MWh is actually generated; 100 MWh would be reflected on the E-tag and is counted for "Bucket # 1(c)."	☐ Over what period of time may the facility's meter data be netted against the final adjusted E-tags from the contract? Hourly? Monthly? ☐ What additional technology, data, or systems, if any, are needed to track, compute, and produce for verification these comparisons of meter data with final adjusted E-tags? How does the answer to this question impact the feasibility or reasonableness of any particular netting period, as discussed in the bullet above?

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
	eligible renewable energy resource shall count toward this portfolio content category."			

For Reference and Discussion Purposes Only: Information contained herein does not necessarily reflect the views of any party.

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
Bucket #1(d)	**399.16(b)(1)(B):** **[re dynamically scheduled transactions]** "*Have an agreement to dynamically transfer electricity to a California balancing authority.*"	☐ Any transaction in which the energy from an ERR located within the WECC is dynamically transferred into a CBA; ☐ Able to show agreement between generator and CBA (and, if necessary for a pseudo-tie, with the host BA) that allows for the CBA to dynamically transfer the electrical output from the eligible renewable resource to serve CBA load.	☐ Qualifying interconnection agreements include pseudo-tie agreements and dynamic scheduling agreements (or functional equivalent). ☐ Bundled deliveries pursuant to a dynamic transfer agreement (or functional equivalent).	
Bucket #2 ***"FIRMED AND SHAPED TRANSACTIONS"***	**Section 399.16(b)(2):** "***Firmed and shaped*** *eligible renewable energy resource electricity products providing* ***incremental electricity*** *and scheduled into a California balancing authority.*"	☐ Electricity products must derive from eligible renewable energy resources located with the WECC. ☐ REC must be "E-tagged" to energy scheduled for delivery to a CBA; ☐ Energy to which the REC is "E-tagged" must be "incremental" ☐ Energy to which the REC is "E-tagged" must have been delivered to the CBA within the same calendar year of the	☐ Retail seller buys bundled product of energy and RECs from an ERR not located in a CBA. Energy is immediately sold off locally. Retail seller tags the RECs from the RPS PPA to the E-tags for the imported incremental energy within the same calendar year that the RECs were generated. ☐ Procurement of bundled product from ERR outside of a CBA. ERR intends generally to qualify as	☐ What is the definition of "incremental electricity?" ☐ Are there any additional attributes or contract structures that must be included to qualify procurement as a "firmed and shaped" product (i.e., concurrent procurement, fixed price agreement, etc)? ☐ Should there be a grace

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
		creation of the REC within WREGIS.	Bucket #1(c) by scheduling imports directly into a CBA. However, ERR cannot transmit its full contract quantity into a CBA within the time period specified for Bucket #1(c). In the same time period, ERR delivers a firm schedule for import into the CBA using some substitute energy. The "stranded" RECs are tagged to the substitute energy within the same calendar year and qualify as Bucket #2.	period beyond the calendar year during which the tagging process may be "trued up?" □ Must the term of the firming and shaping agreement described in the first illustrative contract structure match the term of the RPS PPA producing the RECs? □ What other contract structures or variations on the consensus contract structures qualify as bucket #2?
"Bucket #3" ***All Other RPS Products***	**[Section 399.16(b)(3):]** "*Eligible renewable energy resource electricity products, or any fraction of the electricity generated,*	□ Any certificate registered within the Western Renewable Generator Information System (WREGIS) that does not qualify as Bucket 1 or Bucket 2. □ No energy and/or capacity need be associated with this type of	□ Retail seller procures unbundled RECs from an ERR located within WECC, but not in a CBA. Retail seller does not "tag" these RECs to any energy. □ Energy to which a REC generated by a non-CBA facility is tagged is	

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
	including unbundled renewable energy credits, that do not qualify under the criteria of paragraph (1) or (2)."	transaction.	imported outside the same calendar year or is not "incremental."	

VERIFICATION

I, Matt Miley, am an attorney for the Division of Ratepayer Advocates which is a party herein, and am authorized to make this verification on DRA's behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein 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 are true and correct.

Executed on August 8, 2011 at San Francisco, California.

/s/ MATT MILEY

Matt Miley
Staff Counsel