

**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 R.11-05-005

**COMMENTS OF THE GREEN POWER INSTITUTE ON THE  
ALJ'S RULING REQUESTING COMMENTS ON CONTENT CATEGORIES**

August 8, 2011

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## COMMENTS OF THE GREEN POWER INSTITUTE ON THE ALJ'S RULING REQUESTING COMMENTS ON CONTENT CATEGORIES

Pursuant to the July 12, 2011, *Administrative Law Judge's Ruling Requesting Comments on Implementation of New Portfolio Content Categories for the Renewables Portfolio Standard Program*, in Proceeding R-11-05-005, the **Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program**, the Green Power Institute, a program of the Pacific Institute for Studies in Development, Environment, and Security (GPI), provides these *Comments*, which address the questions posed in the *Ruling*.

This *Ruling* is focused on new CA Public Utilities Code § 399.16, which was enacted as part of SB 2 (1x), the 33-percent RPS legislation passed earlier this year. The *Ruling* poses 24 questions, which we address by question number without restating the questions, per instructions in the *Ruling*. We address selected questions from the *Ruling*.

1. The GPI believes that the phrase, “eligible renewable energy resource electricity products” means any electrical product produced by a California-eligible generator and sold (and sometimes resold) in the marketplace.
2. The GPI believes that the *Ruling* successfully translates the language in the statute into Standard English.
4. SB 2 (1x) removes the Delivery requirement that previously was a component of the California RPS program. In our opinion, the qualification under consideration here addresses the same issue, but from a different angle. Here, we are looking at an out-of-state resource whose electrical output is being scheduled directly into a California balancing authority. Practically speaking, this means that the electricity will have a single NERC e-tag with a routing leading directly from the generator into California control. This is a stricter requirement than the state’s current version of the Delivery requirement, which

allows separate input and output e-tags to be matched up for purposes of demonstrating Delivery.

5. In connection with developing rules for the use of TRECs in the RPS program, the Commission has identified the category of out-of-state generators with firm transmission rights into California as one that might be eligible for future categorization as Bundled, subject to further deliberation. The new statutory language puts electricity that has a single e-tag into California in the same category as in-state electricity (§ 399.16 (b)(1)(A)). Firm transmission rights allow a generator to schedule all of its output into California on a single e-tag, so in our opinion such a generator falls into the § 399.16 (b)(1)(A) category, and these new categories (§§s 399.16 (b)(1), (2), and (3)), in effect, replace the Bundled vs. Unbundled categories currently used to differentiate between TRECs and bundled RECs.

6. The transactions referred to in question # 4 above can be tracked by NERC e-tags.

8. Same answer as # 2 above.

10. As written, § 399.16 (b)(1) can include transactions that involve the transfer of RECs separately from the underlying electricity, when the generator is located in-state, or directly interconnected to a California balancing authority. According to concepts and terminology that was in use before SB 2 (1x), this would be classified as TRECs. However, with the new legislation, these transactions are now in category § 399.16 (b)(1). The description of § 399.16 (b)(3) includes the phrase: “including unbundled renewable energy credits, that do not qualify under the criteria of paragraph (1) or (2).” These are unbundled RECs, but they do qualify under paragraph (1). Their inclusion under paragraph (1) does not conflict with the language in paragraph (3).

15. In the opinion of the GPI, § 399.16 (b)(2) refers to intermittent resources that are located out-of-state (or outside of a California balancing authority). We are unaware of any reason why an in-state intermittent resource would need firming or shaping, and we are similarly unaware of any reason why a baseload generator would need firming or shaping services, whether located in-state or out-of-state.

16. Yes. For firm and shaped products only a portion of the electricity that is procured inside a California balancing authority under the contract originates with the eligible out-of-state generator. To qualify under § 399.16 (b)(1), all of the electricity must be accountable under e-tags originating with the eligible generator, and ending inside a California balancing authority.

17. In the opinion of the GPI, the phrase, “count in full” is linked to the phrase, “if [certain] conditions are met.” In other words, these contracts should be counted in full unless those certain other conditions are **not** met, in which case presumably those unmet conditions would govern the situation.

18. In the opinion of the GPI, the new legislation requires a change in the rules that the Commission has established for the use of TRECs. New § 399.16 only limits out-of-state TRECs, not all TRECs. It follows logically that the CPUC should now conform its rules to the new statute.

20. The GPI’s only comment on this item concerns the second bullet, the issue of whether or not to remove the Delivery requirement for contracts already in place. In our opinion, creating artificial differences between contracts always has the potential to lead to unintended and unproductive outcomes. Moreover, the new legislation clearly demonstrates that state policy on this issue has changed. We recommend that on the date that the new legislation becomes effective, all Delivery requirements be removed from the Commission’s RPS rules.

23. Since the inception of the California RPS program there has been a tension between the relative merits of in-state vs. out-of-state generators. Question # 23 simply updates the issue to the context of the new legislation. The fact is that some of the benefits to California ratepayers from renewables do not depend on the location of the generator, and some of the benefits do. For example, the greenhouse-gas benefits for Californians of substituting renewables for fossil fuel use do not depend on the location of the generator. The jobs benefits and other local economic-development benefits, as well as the local air-

quality benefits of renewable generation do depend on the location of the generator. There can be no doubt that all eligible renewables provide benefits for California ratepayers, but in-state generators provide greater benefits than out-of state generators. In other words, with regards to benefits, we see a significant difference between generators in category 1 vs. generators in categories 2 and 3. Regarding categories 2 and 3 we see limited difference between the two in terms of overall benefit level.

24. Given that the window during which SB 2 (1x) will take effect is only 2½ months (Oct. 15 – Dec. 31, 2011), and that a good deal of rule making has to take place before the new, compliant program can take effect, we believe that in the interest of business certainty it makes sense to designate January 1, 2012 as the date on which SB 2 (1x) goes into effect.

Dated August 8, 2011

Respectfully Submitted,



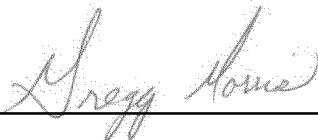
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VERIFICATION

I, Gregory Morris, am Director of the Green Power Institute, and a Research Affiliate of the Pacific Institute for Studies in Development, Environment, and Security. I am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing copy of *Comments of the Green Power Institute on the ALJ's Ruling Requesting Comments on Content Categories*, filed in R.11-05-005, are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

Executed on August 8, 2011, at Berkeley, California.



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Gregory Morris