BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program.	))))	R.11-05-005

CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION COMMENTS ON ADMINISTRATIVE LAW JUDGE'S RULING ON IMPLEMENTATION OF NEW PORTFOLIO CONTENT CATEGORIES FOR THE RENEWABLE PORTFOLIO STANDARD

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In accordance with the *Administrative Law Judge's Ruling Requesting Comments on Implementation of New Portfolio Content Categories for the Renewables Portfolio Standard Program,* ("ALJ Ruling"), dated July 12, 2011, the California Municipal Utilities Association ("CMUA") respectfully submits these comments on behalf of its members.

I. INTRODUCTION

CMUA is a statewide organization of local public agencies in California that provide electricity and water service to California consumers. CMUA membership includes publicly owned electric utilities ("POUs") that operate electric distribution and transmission systems. In total, CMUA members provide approximately 25 percent of the electricity load in California.

CMUA's members actively participated in the preparation of these comments in order to provide record evidence and improve the decision-making process of the California Public Utilities Commission ("Commission"), in the spirit of collaboration outlined in Commission

statements in this proceeding.[1] CMUA members have taken extraordinary efforts to consolidate their input through CMUA for the sake of administrative economy. A streamlining of POU input will clearly be helpful to the Commission and to parties in this proceeding.

Like the Commission, POUs are also working to implement the requirements of SB 2 (1X) and the new 33 percent renewable portfolio standard ("RPS") mandated therein. The ALJ Ruling seeks comments regarding new Public Utilities Code section 399.16 (added by SB 2 (1X)), which sets forth "portfolio content categories."[2]

Section 399.30(p) provides that the Commission "has no authority or jurisdiction to enforce the requirements of [SB 2 (1X)] on a local publicly owned utility."[3] The local governing boards that govern their respective POUs have the jurisdictional responsibility to enforce SB 2 (1X) on POUs. However, because section 399.30(c)(3) requires POUs to adopt procurement requirements "consistent with" section 399.16, CMUA provides these Comments to advise the Commission about how POUs will likely implement SB 2 (1X) consistent with the statutory direction in section 399.16.[4]

It is important that SB 2 (1X) be implemented in a manner that allows California to realize the intended benefits of increased electricity production from renewable resources, while minimizing impacts on customers and maintaining the reliability of the state's electrical distribution and transmission system. SB 2 (1X), including the section 399.16 portfolio content categories, raises new and complex issues. By its own terms, SB 2 (1X) recognizes the need for something other than a "one size fits all" approach. For example, SB 2 (1X) distinguishes

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[1] *See* Order Instituting Rulemaking Regarding Implementation and Administration of the Renewables Portfolio Standard Program, dated May 10, 2011, at 19.
[2] All statutory references herein are to the California Public Utilities Code, unless otherwise noted.
[3] Cal. Pub. Util. Code § 399.30(p).
[4] The Commission generally does not have jurisdiction over POUs. *See also* Opening Comments of California Municipal Utilities Association, May 31, 2011, regarding the scope of CMUA's participation in R.11-05-005.

between electric corporations regulated by the Commission and POUs regulated by their governing boards.[5] It also acknowledges that small utilities may face unique circumstances.[6] SB 2 (1X) implementation must be flexible enough to accommodate these and other differences between and among all types of retail sellers and POUs as California transitions from the current RPS program to the new 33 percent requirements pursuant to SB 2 (1X).

Similarly, as different entities implement section 399.16, CMUA cautions against adopting requirements now that may inadvertently or indirectly affect the ability of POUs to take reasonable measures for achieving RPS goals in the future. To that end, CMUA recommends that the Commission strive to ensure that its interpretation of section 399.16 allows sufficient flexibility to accommodate renewable industry developments that may occur as the state's RPS program evolves. CMUA's comments reflect the goals of increased renewable resources, rate stability, system reliability, and flexibility.

CMUA appreciates the Commission's consideration of these comments. CMUA does not address every question in the ALJ's Ruling in these comments. A non-response by CMUA should not be construed as an affirmative or negative answer to the question posed. CMUA reserves the right to reply to comments responding to all questions raised in the ALJ's Ruling.

II. RESPONSES TO SPECIFIC QUESTIONS RAISED IN THE ALJ RULING

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

There are five "California balancing authorities" that meet the statutory definition set forth in section 339.12(d): (1) the Balancing Authority of Northern California; (2) the California

[5] The RPS obligations applicable to POUs are contained in section 399.30, separately from the sections applicable to the Commission-jurisdictional entities.

[6] *See, e.g.,* Cal. Pub. Util. Code §§ 399.17 (providing exemptions for multi-jurisdictional utilities), 399.18 (providing exemptions for certain small retail sellers), and 399.16(e) (permitting the Commission to provide exemptions based on specified reasons).

Independent System Operator Corporation; (3) the Los Angeles Department of Water and Power; (4) the Imperial Irrigation District; and (5) the Turlock Irrigation District.

The statute defines both "balancing authority" and "balancing authority area." Section 339.12(b) defines "balancing authority" to mean the "responsible entity that integrates resource plans ahead of time, maintains load-interchange generation balancing within a balancing authority area, and supports interconnection frequency in real time." Section 339.12(c) defines "balancing authority areas" to mean "the collection of generation, transmission, and loads within the metered boundaries of the area within which the balancing authority maintains the electrical load-resource balance."

Simply based on a survey of relevant empirical data, there are ten balancing authorities with boundaries in whole or part within California; the five listed above, plus Bonneville Power Administration ("BPA"), NV Energy, PacifiCorp, Sierra Pacific Power,[7] and the Western Area Power Administration, Lower Colorado River Region ("WALC"). To support this statement, CMUA has provided a link to a recently updated map produced by the California Energy Commission ("CEC") map, which delineates the relevant balancing authority boundaries.[8]

However, the relevant term for the purposes of defining the first portfolio content category is "California balancing authority." Section 399.12(d) not only incorporates merely empirical information in the description. It also requires that the balancing authority be located primarily within California. While BPA, NV Energy, PacifiCorp, Sierra Pacific Power, and WALC apparently operate balancing authorities that include areas within California, they have

[7] Please note that NV Energy and Sierra Pacific Power have undergone corporate reorganization since the relevant compliance registries have been updated. They are subsidiaries, but it is CMUA's understanding that they continue to operate separate balancing authorities. This may be in flux, but it is not relevant to the ultimate determination of the proper definition of "California balancing authority."

[8] http://www.energy.ca.gov/maps/serviceareas/iso_non-iso_service_areas.html.

extensive systems outside of the state, and thus they are not operating a balancing authority *primarily* located within California.

Question 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.

It is the responsibility of the CEC to certify eligible resources and to design and implement the accounting system to verify compliance.[9] Although the CEC is charged with developing this system, the bulk of the work has already been completed in the development and use of the Western Renewable Energy Generation Information System ("WREGIS"). The Commission should not undertake the development of any new tracking systems. Further, as the CEC develops this system and works with WREGIS to refine the use of WREGIS to meet the needs of the state's programs, there should be distinct and separate categories created for the retirement of RECs. Specifically, RECs should be categorized for retirement as either meeting one of the three "procurement content categories" set forth in section 399.16(b) or meeting the grandfathering requirements of section 399.16(d).

Question 10: 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)? If yes, please also address how a particular transaction can be characterized and verified as belonging in a particular portfolio content category.

Yes, section 399.16(b)(1) includes transactions that transfer only RECs, as long as the RECs are from RPS-eligible generators that are located in California or have a first point of interconnection with a California balancing authority. This interpretation is clear from the wording of section 399.16(b)(1)(A). If an RPS-eligible generator has "a first point of

[9] Cal. Pub. Util. Code § 399.25(a)-(b).

interconnection with a California balancing authority, [has] a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or [is] scheduled . . . into California without substituting electricity from another source," the generator's product falls within section 399.16(b)(1) without regard for whether the associated REC is subsequently sold with energy on a bundled basis or is sold apart from the energy on an unbundled basis. Thus, "REC-only" or unbundled REC transactions should be considered eligible for the first procurement content category.

It would be consistent with the policy objectives of SB2 (1X) to include all RECs within section 399.16(b)(1) if the generator that produces the RECs meets the criteria of section 399.16(b)(1) regardless of whether the transfer of the REC occurs on a bundled or unbundled basis. California Public Resources Code section 25740.5(c) (section 4 of SB2 (1X)) provides:

> The program objective shall be to increase, in the near term, the quantity of California's electricity generated by renewable electrical generation facilities located in this state, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents.

Including unbundled as well as bundled RECs within section 399.16(b)(1) would promote the development of generation facilities in California by increasing the options that a California RPS-eligible generator would have for taking full economic advantage of its project. Conversely, excluding the generator's product from section 399.16(b)(1) if the associated REC were sold on an unbundled basis would diminish the economic value of the project. This would be inconsistent with the programmatic objective of increasing "the quantity of California's electricity generated by renewable electrical generation facilities located in this state . . . ."[10]

[10] Ca. Pub. Res. Code § 25740.5(c).

Verification that an unbundled REC falls within section 399.16(b)(1) would not be a problem. Each REC issued by WREGIS carries information on the name and location of the generating facility that generated the REC,[11] so it will be relatively straightforward to confirm whether a particular REC meets the criteria of section 399.16(b)(1).

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

See response to Question 13.

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

This response addresses Questions 12 and 13 together. "Firmed" and "shaped" indeed have different technical meanings in the broader context of RPS and non-RPS wholesale transactions. For example, parties have been entering into "firm energy contracts," for many years in non-renewable transactions.

However, in SB 2(1X), the terms "firmed" and "shaped" are not used separately. When implementing SB 2 (1X), the Commission and CEC must look to both the legislative history of the RPS program, as well as the manner in which these programs are already administered. Accordingly, the Commission should not seek to create new definitions for the words "firmed" and "shaped." Rather, the Commission should continue to treat "firmed and shaped" as a single term at present, consistent with the current CEC definition, and should follow any revisions that the CEC develops as it updates the eligibility requirements in response to SB 2 (1X).

The term "firmed and shaped" refers to the output of a renewable energy resource delivered at a constant rate for a defined period of time based on forecasted production. Using

[11] *See* Appendix B-1 ("Data Fields on a Certificate") to the WREGIS Operating Rules, December 2010, *available at* http://www.wregis.org/uploads/files/851/WREGIS%20Operating%20Rules%20v%2012%209%2010.pdf

the word "firmed" alone does not capture the intent of the phrase that is used to describe this arrangement that provides useful and predictable hourly energy schedules and makes more efficient use of limited transmission resources. Transmission pathways are more efficiently used because only the average or shaped delivery rate needs to be reserved rather than the maximum credible production rate within any period of time.

In determining the appropriate definition of "firmed and shaped," the Commission should look to existing regulations and existing interpretations of "firmed and shaped." The CEC's *Renewable Portfolio Standard Eligibility Guidebook, Fourth Edition* ("RPS Eligibility Guidebook"), provides a brief explanation for firmed and shaped agreements:

> In particular terms, out-of-state energy may be 'firmed' or 'shaped' within the calendar year. Firming and shaping refers to the process by which resources with variable delivery schedules may be backed up or supplemented with delivery from another source to meet customer load.[12]

Since many renewable resources are primarily intermittent resources by nature, firming and shaping such resources is crucially important in order to allow load serving entities to procure a cost effective and useable product. Further, different parties within Western wholesale electricity markets typically offer different types of firming and shaping services. The Commission should not attempt to create a prescriptive rule of what counts as "firmed and shaped" that does not reflect these commercial realities, since it will limit potential counterparties and reduce market options for buyers.

In determining the appropriate definition of "firmed and shaped," the Commission should also look to the CEC's treatment of this concept in the context of the Emission Performance Standard ("EPS") Regulation. In the EPS Regulation, the CEC described "specified contracts

[12] RPS Eligibility Guidebook at 37.

with intermittent renewable resources" that included substitute energy. In the context of determining compliance with the EPS, these contracts were deemed compliant, as long as the amount of energy that was purchased from other resources was limited so as not to exceed "the total reasonably expected output of the identified renewable power plant over the term of the contract."[13] The same concept can and should be applied and met to determine the total amount of output from a renewable resource that meets the requirements set forth in section 399.16(b)(2).

During its June 17, 2011 Workshop on *Implementing the 33 Percent RPS for Publicly Owned Utilities*, the CEC stated its plan to update and revise the RPS Eligibility Guidebook to reflect the implementation of the 33 percent RPS in SB 2 (1X). An updated definition for the term "firmed and shaped" will likely be incorporated into the revised RPS Eligibility Guidebook, and should be utilized by the Commission. The revised RPS Eligibility Guidebook will be another important source of guidance and information regarding project eligibility for all compliance entities.

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[13] Cal. Code Regs. tit. 20 § 2906 (2007). Section 2906 provides that: "For specified contracts with intermittent renewable resources, the amount of substitute energy purchases from unspecified resources is limited such that total purchases under the contract, whether from the intermittent renewable resource or from substitute unspecified resources, do not exceed the total reasonably expected output of the identified renewable powerplant over the term of the contract."

Question 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 areas 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.**

CMUA respectfully submits that the plain meaning of SB 2 (1X) adequately explains the intent of the Legislature with regard to the term "incremental energy." The term "incremental" as used in Question 14 appears in section 399.16(b)(2) defining procurement category two, firmed and shaped products. A renewable resource scheduled to a California balancing authority that does not substitute electricity counts in the first procurement content category. RECs that are not bundled with the physical delivery of energy belong in procurement content category three unless the unbundled electricity from the underlying resource otherwise qualifies for category one (see the response to question 10, above). There must be language that distinguishes firmed and shaped products from unbundled RECs. The distinguishing factor is that the firmed and shaped products result in an actual delivery of power, or "incremental electricity," to a California balancing authority, while the unbundled REC can be included in category three without regard to whether there is an actual delivery of electricity. That is all that the term "incremental electricity" means in this context.

It would be inappropriate to insert any other qualifications on the term "incremental electricity" beyond what is contained in the statute. The statute does not contain any temporal qualifications on when the electricity must be scheduled as compared to its generation. Indeed, there are a variety of commercial arrangements that vary as to the obligations of the supplier to firm the renewable resource. To create artificial limitations beyond what is already provided in statute will harm the ability of all load-serving entities to ensure cost-effective procurement of such products.

Accordingly, since SB 2 (1X) includes neither scheduling or locational restrictions for the delivered electricity or generation facilities, the Commission should not impose any. Had the legislature wanted to impose such restrictions, they would have included them within the text of the statute; since they did not do so, neither should the Commission.

On the final subpart of this question, retail sellers and POUs can only be held accountable for actions under their control. Curtailment orders, whether they are due to environmental restrictions, over generation, transmission outages, or other operational considerations, should not be cause for discounting renewable energy procurement. The effects of such grid events, operator action, or counterparty performance are wholly outside the control of the retailer seller or POU, and thus, the definition of "incremental electricity" must be based on the contract terms.

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Question 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?

- **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?**

An eligible renewable energy resource electricity product that satisfies the requirements of section 399.16(b)(1) falls within section 399.16(b)(1) regardless of whether the product is firmed and shaped such that it also meets the criteria of section 399.16(b)(2). To avoid the potential for overlap between the procurement content categories, section 399.16(b)(2) should be interpreted to refer only to energy that meets the criteria of section 399.16(b)(2) but not section 399.16(b)(1).

With specific application to procurement category two, the place of generation of the energy used to firm and shape the renewable resource is not relevant. The firming and shaping can be generated within or outside the boundaries of a California balancing authority. Section 399.16(b)(2) does not expressly set out any requirements for the location of the firming and shaping energy, and there is no reason to imply such a requirement.

Section 399.16(b)(2) should not be interpreted as applying to only what have traditionally been considered intermittent generation, i.e. solar and wind. The production from many sources of electricity may vary over time even though these resources may not be traditionally classified as "intermittent." Furthermore, although some renwable resources may have relatively stable output, the purchaser may wish to obtain energy that better matches seasonal load requirements. Thus, it may be beneficial for these resources to be firmed and shaped. There is no reason to determine that such energy would not meet the requirements of section 399.16(b)(2).

Renewable energy of any type that is firmed and shaped remains categorically distinct from unbundled RECs included in procurement category three.

Question 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?**

The phrase "ownership agreement" should be interpreted broadly to take into account the various forms of agreements that parties have for the provision and receipt of electricity. The Legislature clearly did not intend for this provision to be limited only to traditional "contracts," and therefore, included the term "ownership agreement." Accordingly, a broad interpretation is warranted in order to capture the full universe of commercial terms that give the retail seller the rights to the power from the renewable resource. An "ownership agreement" is anything that reflects ownership. Therefore, it is not necessary to narrow or further refine the statement.

Likewise, the phrase "count in full" should not be subject to limiting restrictions. The phrase is used to ensure that the entire contract or agreement amount of renewable electricity is included within the exemptions specified in section 399.16(d). Instead of looking to place limitations on the use of such electricity, the Commission should look to rules of statutory interpretation and read this section as an explicit direction from the legislature that the output of such contracts NOT be limited in any way. To infer any other interpretation would render meaningless the addition of the phrase "count in full" in this section.

The only restrictions set forth in the legislation that would apply to the section 399.16(d) resources are specifically detailed in subsections (1), (2), and (3) of Section 399.16(d), and are unambiguous.

By way of example, CMUA members routinely procure renewable resources in three ways: (1) direct utility development and ownership; (2) jointly, often through joint powers authorities ("JPA") of which they are members; or (3) through a purchase power agreement with a third-party developer.[14]

The first, direct utility development and ownership, is self-evident. CMUA members often directly develop, own, maintain, operate, and take the output of renewable resources consistent with their vertically-integrated business model. Examples of this type of transaction include the Sacramento Municipal Utility District Solano Wind Project and the Los Angeles Department of Water and Power Pine Tree Project.

CMUA members also develop renewable projects through JPAs, including the M-S-R Public Power Agency, the Northern California Power Agency, and the Southern California Public Power Authority. CMUA members use these JPAs to achieve economies of scale, reduce transaction costs, and provide more cost-effective options for their customers. There are several projects entered into by JPAs for renewable resources. The predominant commercial model is where the JPA-members have a share of the output of a renewable resource through the JPA, with the JPA having the direct contractual relationship with the project owner. Although not directly relevant to the question presented here, the JPA will often have a purchase option permitting acquisition of the resource at some later date. CMUA members may also choose to

[14] CMUA understands that certain of these transactional forms may not be utilized by retail sellers, but provides relevant examples specific to POUs to help respond more specifically to the question posed in the ALJ Ruling.

prepay for the output of the project through advanced funding and the issuance of bonds, if financing costs are favorable.

Finally, CMUA members enter into direct contracts for renewable products with third parties, in a model most akin to typical procurement by Commission-jurisdictional entities.

Each of these contracts or ownership forms provide examples of a "contract or ownership agreement." There is no evidence to suggest that the phrase "contract or ownership agreement" is meant to limit in any way the types of commercial arrangements that may be counted under Section 399.16(d), but is simply meant to capture the broad array of deals types that are available in the marketplace.

Question 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)?

Section 399.16(d) "grandfathers" contracts or ownership agreements that were executed prior to June 1, 2010 by providing that the pre-June 1, 2010 contracts or ownership agreements shall "count in full towards the procurement requirements" that are established in SB 2 (1X). This language allows utilities the opportunity to count or exclude contracts or ownership agreements from the portfolio content categories of Section 399.16(b). "Count in full" is the key phrase in this section.

The contracts or ownership agreements covered by section 399.16(d) are not required to fall within the categories specified in Section 399.16(b) and are not required to be subject to the percentage limitations specified in section 399.16(c), although the contracts and ownership agreements that are "grandfathered" under section 399.16(d) shall "count in full" toward a utility's SB 2 (1X) compliance obligation.

Section 399.16(d) recognizes early actions of utilities by giving RPS value to contracts and ownership agreements in place prior to June 1, 2010. It provides that if specified conditions are met: "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 . . . ." The specified conditions address the RPS eligibility of the energy resource, approval of the contract, and amendment or extension of the contract.

By the plain meaning of the words "count in full," it is clear that the statute provides a flexible compliance mechanism permitting, but not requiring, a regulated entity to exempt grandfathered resources from the portfolio content categories of section 399.16(b). Under section 399.16(d), so long as these "grandfathered" contracts were RPS eligible at the time of execution under the then-existing rules of the jurisdictional authority, they may be used to meet RPS requirements without condition or restriction.

"Count in full" means that all generation received under a contract for the entire period of the contract may be applied toward the utility's RPS obligation. Thus, the output of renewable resources that meet the requirements of section 399.16(d) may, at the option of the regulated entity, either be omitted from or included in the portfolio content categories that are specified in section 399.16(b). Insofar as the output of renewable energy resources that meet the requirements of section 399.16(d) counts fully toward meeting a utility's RPS obligation under SB 2 (1X), the section 399.16(d) output may, at the option of the utility, be subtracted from or included in the portion of the utility's renewable energy resources that is covered by the section 399.16(b) portfolio content categories and subject to the section 399.16(c) percentage limitations.

The clear purpose of 399.16(d) is to avoid penalizing a utility's early actions or a utility's compliance with the previous RPS requirements, which did not contain the procurement content

restrictions. Therefore, the Commission should in no event interpret this provision in a manner that would penalize a utility by forcing it to grandfather certain resources. Each regulated entity must be given the flexibility to choose whether it will designate a specified resource toward one of the content categories or as a "grandfathered" resource. Any other interpretation could serve to penalize a utility for early actions, and would be counter to the clear intent of the Legislature.

The policy support for this "grandfathering" approach is based on the recognition of early RPS implementation actions taken by many California utilities. For example, MID adopted an RPS policy in 2003, and invested, prior to the passage of SB 2 (1X), in wind and other resources deemed RPS-eligible by the rules then in place. SB 2 (1X) was designed to acknowledge these early actions, including in section 399.16(d), by stating that "*any* contract or ownership agreement originally executed prior to June 1, 2010, shall count in *full* . . . ."[15] Accordingly, restrictions on the clear language would be contrary to the statute.

Question 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?

The provisions of SB 2 (1X) should not be implemented prior to the effective date of the legislation, at which time the bill actually becomes law. While acknowledging that this could cause some constraints for purposes of putting any new provisions into effect, it is legally necessary. In order to avoid retroactive application of the statute, both the Commission and CEC will have to develop flexible compliance approaches for early periods of the RPS program.

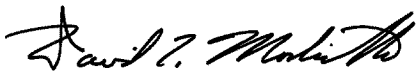
[15] Emphasis added.

III. CONCLUSION

CMUA appreciates the opportunity to provide these comments to the Commission in this proceeding.

Dated: August 8, 2011

Respectfully submitted,



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VERIFICATION

I am an officer of the California Municipal Utilities Association, and am authorized to make this verification on its behalf. The statements in the foregoing document 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.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 8, 2011 at Sacramento, California.

Dave Modisette
Executive Director
California Municipal Utilities Association