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 Sec. 399.20 Program. (Filed May 5, 2011)

COMMENTS OF ENXCO DEVELOPMENT CORPORATION ON THE IMPLEMENTATION OF NEW PORTFOLIO CONTENT CATEGORIES FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM

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ENXCO DEVELOPMENT CORPORATION

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I. INTRODUCTION AND SUMMARY

In accordance with the directives provided in the July 12, 2011, Administrative Law Judge's Ruling Requesting Comments on Implementation of New Portfolio Content Categories for the Renewables Portfolio Standard Program ("Ruling"), enXco Development Corporation ("enXco")[1] respectfully submits to the California Public Utilities Commission ("Commission") the following comments on the issues raised and questions posed by Administrative Law Judge ("ALJ") Anne E. Simon. The July 12 Ruling notes that SB 2 (1x) makes numerous changes to the renewable portfolio standard ("RPS") program and requests that parties provide comments on the addition of "portfolio content categories" and quantitative rules for the use of transactions in each category for RPS compliance by retail sellers, set out in new Pub. Util. Code § 399.16. enXco is pleased to respond to questions regarding implementation of SB 2(1x) (also referred to as the "legislation") and specifically the operational definitions of the various "portfolio content categories of transactions" ("content categories") specified in § 399.16 of the legislation.

[1] enXco develops, builds, operates and manages state-of-the-art renewable energy projects throughout North America. enXco, through its subsidiaries, is the developer and owner of the 150 MW Shiloh 2 Wind Project, located in Rio Vista, California.

Rather than immediately answer each question presented in the July 12, 2011 request for comments, we begin with our framework for the content categories, which will then directly feed into our responses to each question. We employ the following terms in our framework:

Bundling Period. This represents the amount of time that can elapse between when the generation actually occurs and when the physical delivery of power to a California balancing authority ("BA") occurs. In other words, this is the lag time between when the power is generated and when it has to be delivered.

Physical Source. This represents where delivered power originates from.

Physical Source Geographic Nexus. This represents the rules surrounding the location requirements for the generator and the delivery of physical power.

Quantity Nexus. This represents the link between the volume of renewable energy delivered within a bundling period and the amount of renewable power that can be counted towards the various buckets.

Bucket 1 Bundling Period. This refers to the period within which the electricity generated from the out-of-state renewable generator must be delivered to a California BA to qualify for § 399.16(b)(1)(A), within § 399.16(b)(1) ("Bucket 1"). This is either hourly or sub-hourly, depending on scheduling rules in place at the time. Overall, over a one-hour period the generation from a renewable generator has to correspond with a scheduled delivery to a California BA for that hour in order to qualify for Bucket 1. It does not have to match second-to-second or minute-to-minute (which would be dynamically transferred). It does have to be generated, scheduled, and delivered within the hour.

Bucket 2 Bundling Period. This refers to the period within which the electricity generated from the out-of-state renewable generator must be delivered to a California BA to qualify for § 399.16(b)(2) ("Bucket 2"). For example, with a 180-day compliance window, if an

out-of-state renewable resource generated power on January 1 of a given year, then it would have up until 180 days thereafter of that same year to schedule and deliver the power. There is no direct link between the generator and the delivery.

Bucket 1 Geographic Nexus. Since Bucket 1 transactions have to be generated, scheduled, tagged, and delivered, the renewable generator can be anywhere within the Western Electricity Coordinating Council ("WECC") footprint provided the nexus is established through the source to sink physical scheduling process.

Bucket 1 Quantity Nexus. Because Bucket 1 requires same-hour delivery and no substitution of power, the quantity that can be claimed for Bucket 1 in any given hour is the lower of the scheduled (tagged) or actual delivery. Volumes generated above the scheduled volume were not delivered. Should actual volume be less than the scheduled volume, then the schedule was kept whole through substitution which is not counted towards the RPS requirements of the relevant load-serving entity purchasing the power.

Bucket 2 Quantity Nexus. Unlike Bucket 1, Bucket 2 does not require same-hour delivery of metered generation from a renewable energy resource, nor would it require delivery of busbar generation from an eligible renewable energy resource into a California BA. However, the same concept applies whereby the quantity that can be claimed for Bucket 2 is the lower of the scheduled (tagged) or actual delivery. The difference is that this occurs over a longer time period, with the period to be defined by the Commission. We propose a 180-day period to account for variability of wind and solar generation (thereby requiring a longer period of time to reduce delivery risk and therefore the financing of a new renewable energy resource), while having a short enough period of time to provide certainty to the Commission that bundled deliveries are occurring.

eTag. This is the electronic record that captures all aspects of the physical movement of power between BAs. Information on an eTag includes source (specified generator or system power), source BA, transmission paths, transmission owners, purchasing and selling entities, flow date/time, and sink BA. This is the key information for the bundling period determination.

Table I. Generation and Delivery Requirements for SB 2(1x) Content Categories ("Buckets")

	Bucket #1	**Bucket #2**	**Bucket #3** (§ 399.16(b)(3))
Bundling Period	Energy delivered within the same hour/subhour as it is generated.	Energy delivered within 180 days of generation.	No delivery of energy. RECs delivered within time period stipulated by CPUC.
Physical Source	Physical delivery from specific renewable generator.	No physical delivery from specific renewable generator. Physical delivery of energy from a matching resource required.	No physical delivery.
Quantity Nexus	Lower of actual or scheduled generation. Additional volumes fall into Bucket 2 or Bucket 3.	Actual delivery volumes must equal actual generation volume within the Bundling Period.	None.
Tagging Requirements	Source to sink tagging and delivery required where renewable generator is the source and California BA is the sink. Firm transmission is not required.	Generator/BA source and California BA tie point on tag must satisfy geographic nexus.	None.

While Bucket 2 does not require delivery of an eTag from the generator to a California BA, the design of Bucket 1 will likely result in a mismatch between the renewable generation and the delivery of energy into a California BA, assuming that there is a predefined schedule of energy into California.

- In the case of a deficit of renewable generation for a given hour, then the remaining energy delivered into a California BA will come from a non-compliant resource, which is not counted towards RPS compliance.
- In the case of a surplus of renewable generation for a given hour, the excess renewable generation would not be counted towards Bucket 1 compliance. Rather, it could be bundling with other energy deliveries into California, outside of the hour the renewable energy was generated, but within the calendar year, to qualify for Bucket 2.

Table II below describes three scenarios:

- Scenario 1. There is an equal match of renewable generation (delivered from the busbar to the California BA, as shown on the relevant eTag) and energy delivered into California.
- Scenario 2. There is a deficit of renewable generation (delivered from the busbar to the California BA, as shown on the relevant eTag) compared to energy delivered into California.
- Scenario 3. There is an excess of renewable generation (delivered from the busbar to the California BA, as shown on the relevant eTag) compared to energy delivered into California.

Table II. Scenarios for Generation, Energy Delivery and Substitute Energy for Buckets 1, 2 and 3.

Event	Scenario 1 (MWhs)	Scenario 2 (MWhs)	Scenario 3 (MWhs)
Delivered energy into California BA in a given hour	100	100	100
Actual metered generation from renewable resource during given hour	100	70	150
Substitute energy during given hour	0	30*	0
Renewable energy produced by not delivered within the hour	0	0	50
Bucket 1 MWhs	100	70	100
Bucket 2 MWhs (if eventually bundled with energy during calendar year)	0	0	50

*These units may be bundled with metered generation from an eligible renewable resource from previous or subsequent hours, provided the metered generation occurs within the defined bundling period for Bucket 2.

For verification of Bucket 1, 2 and 3 transactions, several tools will be required, with a different combination for each Bucket. Verification will have to occur after the deliveries are made, likely at the end of the calendar year, when the CPUC can assess full deliveries under each bucket due to the 180-day bundling period definition for Bucket 2.

Table III. Verification Tools for the Buckets

Tool	Bucket 1	Bucket 2	Bucket 3
Western Renewable Energy Generation Information System ("WREGIS") tag	Yes	Yes	Yes
eTag	Yes	Yes*	No
Metered generation data	Yes	Yes	No

*eTag information for Bucket 2 would pertain to the energy delivery to confirm delivery into a California BA during a given 180-day period, not for the renewable generation since there would not be a requirement of delivery of the eTag from generator to a California BA.

Given the total number of hours over a calendar year, verification of Bucket 1 deliveries will have to entail information technology design to allow for verification of each hour the calendar year to identify any potential variances from the claims for Bucket 1 deliveries.

For Bucket 2, verification will be easier, since it will involve a gross true-up of metered generation and energy deliveries into a California BA, with data on the timing of both the metered generation and the energy deliveries the generation has been bundled with, to confirm that they occurred during the proposed 180-day period.

II. COMMENTS

A. Response to Questions

We do not respond to every question in the request for comments. Rather, we answer those that pertain to our framework above, and assume that the remaining questions will be addressed by other parties for the Commission's consideration. We reserve the right to respond to other questions in the reply comments that are due on August 19.

We also include with these comments Attachment 1, which represents points of agreement and disagreement among numerous stakeholders, including investor-owned utilities, consumer groups, independent power producers and environmental groups regarding the definition of the content categories in SB 2(1x). Our primary "open issue" is with the definition of Bucket 2, as we believe there should be additional attributes that must be included to qualify a product as a Bucket 2 product. Our response to Question 14 elaborates our proposal to ensure that Bucket 2 deliveries confer a higher value to ratepayers, and meets more of the stated goals of the legislation, compared to Bucket 3.

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

As we describe above, the phrase should be interpreted as requiring delivery of an eTag from the renewable energy resource to the California BA. Any additional energy needed to fill in a given hour's schedule is "substitute energy" that cannot qualify for RPS compliance.

Question 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?

None of the requirements for each bucket should mandate use of firm transmission rights. Deliveries under Bucket 1 or 2 can occur without firm transmission rights, though we recognize that there is a commercial advantage to having such rights to meet the requirements. That is different, however, than creating an arbitrary regulatory requirement to use firm transmission. Rather, such a requirement would do nothing other than to confer an undue commercial advantage to a limited number of suppliers, beyond the existing commercial advantage recognized above.

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.

We outline verification tools above, as there will be a different combination of eTag tracking, WREGIS tag collection and metered energy data collection required for each Bucket. Verification of Bucket 1 deliveries will require aggregation of hourly delivery data based on eTag and metered generation data, given the many hours entailed. Verification of Bucket 2 deliveries can involve a simpler gross-up of metered generation data and energy deliveries into California for a given 180-day period.

Question 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.

For variable generation such as wind and solar, the ability to maintain a constant flow of energy on an hourly basis is essentially impossible, by definition. However, load-serving entities may want a pre-defined schedule of energy, regardless of the variability of the resource. "Real-time ancillary services" essentially represent "substitute energy" for the variable generation in order to maintain a pre-scheduled delivery of energy.

A determination of RPS-eligible deliveries based on the lower of scheduled energy delivery or actual metered generation ensures that substitute energy is not counted towards RPS compliance. Given our framework above, only the renewable energy generation delivered into a California BA from the busbar during a given hour, with the quantity of energy scheduled into a California BA, should qualify for RPS compliance. In case of a deficit between the renewable energy generation and scheduled energy into a California BA, the associated "substitute energy" from another source would not count towards RPS compliance.

Question 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"?

Yes. Bundling refers to the combination of energy and renewable energy credit, per the definitions of Buckets 1 and 2. An unbundled REC, accordingly, should have been procured independently of the associated energy, or from energy delivery from another source, as defined in an RPS-eligible contract.

Question 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.

We note the potential to confuse resources with transactions, or, to use a term in SB 2(1x), "products." If an entity regulated by the RPS is procured solely RECs for compliance, then on its face this constitutes an unbundled REC product that would fall under Bucket 3.

Question 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"?

- **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.**
- **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.**

Per our discussion above, any busbar generation from a qualified renewable energy resource that is not bundled with energy per the requirements outlined for Buckets 1 and 2 could qualify for Bucket 3. In effect, this busbar generation could come from a resource that is also generating power that qualifies for Buckets 1 and/or 2, hence the "Bucket 3 generation" can represent a fraction of the total generation from the same renewable energy resource.

Per the recommended definitions of Buckets 1 and 2, generation that falls under an "all else" concept such as Bucket 3 would not have been delivered from the busbar to a California BA within the hour of a scheduled energy delivery, nor would have been paired, without a "physical nexus", with energy delivery into California within a 180-day period. Such generation must require only WREGIS-registered tags, with only the calendar year of significance for

compliance, rather than hourly data as would be required for busbar generation under Buckets 1 and 2.

Questions 12 and 13.
"Firmed" is not defined in SB 2 (1x). Please provide a definition or description of this term. Please include relevant examples.

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

We answer these two questions jointly. There is no single definition of firming and shaping. It is a commercial arrangement that can take as many forms as the contracting parties can think up. There are several characteristics that can be used to define firming and shaping in general terms:

- Production of energy and delivery of energy are de-linked. Typically, the buyer wants certainty around when and how much will be delivered which is inherently at odds with a variable resource. Buyers often want the power to be delivered during specific hours or during specific months, regardless of when the production actually occurs. The firming and shaping intermediary takes the intermittent delivery in and provides fixed schedules out.
- The total volumes delivered match total generation over a period of time.

In general, the concept that firming and shaping deals will fall into Bucket 2 is correct. That said, there are plenty of circumstances where a wind generator will be producing energy during the same hours that the firming/shaping deal requires deliveries. If during these hours, the actual wind generation can be successfully scheduled and tagged from source to sink to the California BA then those Megawatt-hours should count towards Bucket #1. This will happen, at least for some volumes, during many hours throughout the year.

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 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.

Incremental electricity should constitute electricity whose characteristics would not have been in California ratepayers' portfolio otherwise. While this definition entails a counterfactual statement and therefore could be very challenging for the Commission to discern, a common-sense approach can eliminate this need to determine the counterfactual but rather ensure delivery of renewable energy's value to ratepayers.

§ 399.11(b)(5) calls for implementation of SB 2(1x) to "[promote] stable retail rates for electric service, while § 399.11(b)(6) calls for "Meeting the state's need for a diversified and balanced energy generation portfolio."

Both of the above explicitly stated legislative goals, and the provision of three "buckets" for products under the requirement, call for a distinct differentiation of value among the three "buckets" to California ratepayers. Accordingly, for Bucket 2, "incremental electricity" should have a different value than REC-only deliveries in Bucket 3 from a ratepayer value perspective.

We do not see a difference, other than a cosmetic one, between Bucket 2 transactions and Bucket 3 transactions solely under the framework we outline above (i.e., proof of busbar generation in the form of a REC, coupled with any energy delivery into a California BA). The

legislation did not create a Bucket 2 category merely to require a superficial coupling of RECs and energy. Rather, per the explicit goals of the legislation, the definition of the Buckets should maximize rate and portfolio diversity benefits to ratepayers. We do not see how defining Bucket 2 as a variant of Bucket 3 achieves that goal.

A clear benefit of renewables, as stated in the above legislation, is price stability in absence of fossil fuel consumption. Accordingly, deliveries under Bucket 2 should require a stable rate component for ratepayers. Absent such a requirement, and given the delivery requirements for Bucket 2, it would be possible for load-serving entities to merely affix RECs to "business as usual" energy deliveries (even if under contracts signed after June 1, 2010), with pricing for such deliveries reflecting the cost of, for example, natural gas-fired generation, or coal-fired generation, with no relationship to the underlying characteristics of the renewable energy generator in the contract.

A geographic requirement for the location of the renewable energy resource and the tie point for bundled energy deliveries into a California BA would do little to enhance ratepayer value. Further, a geographic requirement limited to a non-California BA (i.e., both the renewable energy resource and the tie point of energy into a California BA must be in the same non-California BA) is extremely limiting for non-California renewable resources, given the plethora of BAs in the Northwest, a major center of renewable energy generation in the WECC.

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? 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?**

Overall, the portfolio content categories in SB 2 (1x) should be understood as discrete and not overlapping, in order to avoid arbitrage among different portfolio content categories by suppliers as best as possible, and to reflect the diversity of delivery options specified by the legislation.

Consequently, if a renewable resource is located within the boundaries of a California balancing authority and is directly interconnected into the California balancing authority, then the legislation clearly places that resource in Bucket 1 and not Bucket 2. However, if for some reason the resource is located in the California balancing authority but is not directly interconnected into the California balancing authority, nor meets the other relevant conditions to fall into the Bucket 1 product definitions, then the resource could be considered as a Bucket 2 product provided it meets the relevant conditions.

We also note that Bucket 1 entails no cap on deliveries as a portion of overall RPS deliveries, but rather a floor, which means that a discrete treatment of renewable energy resources among the content categories would not limit deliveries under Bucket 1.

Question 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.

This question is a variation of Question 4, which we answer above. In our answer to Questions 12 and 13, we note that "firmed and shaped" deliveries can include deliveries under both Buckets 1 and 2, particularly since "firming and shaping" can entail the buyer wanting certainty around when and how much will be delivered, which is inherently at odds with a variable resource and, even under Bucket 1, result in a mismatch between energy produced from the renewable energy resource, and the energy delivered into a California BA under a pre-set schedule. (We note earlier that, in the case of underproduction of the renewable energy resource

relative to the energy scheduled and delivered into a California BA, the additional "substitute energy" would not count towards Bucket 1. However, the entire delivery can still be called "firmed and shaped" and would partly qualify for Bucket 1.)

Question 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?

Bucket 1 transactions will require the following information:

- Location of the renewable energy resource, including host BA
- Intended tie point into a California BA for schedule energy deliveries
- Existing and/or intended transmission rights acquisition to support transfer of eTags from the renewable energy resource busbar to the California BA

Bucket 2 transactions will require the following information:

- Location of the renewable energy resource (to confirm location within the WECC)
- Intended contracts, if known, for use for energy deliveries into a California BA, and to be bundled with the renewable energy resource over a 180-day period.

Bucket 3 transactions will require the following information:

- Location of the renewable energy resource (to confirm location within the WECC)

Question 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?

- **What information would be required for such verification?**
- **Would any changes be needed to WREGIS to accommodate your proposal?**

Above, we outline verification tools—in the form of eTags, WREGIS tags, and metered generation data—which either in whole or in part apply to verification of the three Buckets.

- Hourly eTag data and metered generation data is required for Bucket 1 verification. (Calendar year WREGIS tag vintage is sufficient for Bucket 1, since metered generation

coupled with eTag data per each hour will cover verification of the "physical source" requirement.)

- Hourly vintage is required for eTag and metered generation data for Bucket 2 verification. (Calendar year WREGIS tag vintage is sufficient for Bucket 1, since metered generation coupled with eTag data for the delivered energy will cover verification of the "quantity nexus" requirement for Bucket 2.)
- Calendar year vintage for WREGIS tags in required for Bucket 3 verification.

Question 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 transactions under both Bucket 1 and Bucket 2 includes the following:

- The pricing benefit of the renewable energy resource for ratepayers' energy portfolio. (We note that for Bucket 2 to confer this benefit, there must be a "stable price" requirement for the associated energy deliveries into a California BA.)
- Flexibility in the delivery of energy into a California balancing authority per the needs identified by the load-serving entity purchasing the energy
- Access to a range of renewable energy resources inside and outside of California to ensure least-cost and best-fit attributes for ratepayers
- Environmental benefits associated with incremental renewable energy generation delivered to California ratepayers.

The additional value of transactions under Bucket 1 is assurance to ratepayers of near-term delivery of "bundled" energy into California and energy certificates from the renewable energy resource, as opposed to longer-term delivery of "bundled" energy under Bucket 2.

Transactions under Bucket 3 confer solely the environmental benefits of renewable generation, but do not confer pricing benefits to ratepayers nor, in association, a diversified energy portfolio benefit to ratepayers.

Overall, the combination of all portfolio content categories represents a diversified supply portfolio for ratepayers due to geographic dispersion of variable renewable energy resources, with attendant benefits of mitigation of integration costs, access to the lowest-cost renewable energy resources in the WECC for ratepayer benefit, as well as local generation that provides local economic development and potential reliability benefits of supplying low-emission energy close to load.

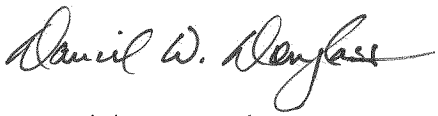
Question 24. The First Extraordinary Session of the Legislature is still in session. Because SB 2 (1x) becomes effective 90 days after the end of this special session, the provisions of SB 2 (1x) will not be in effect until mid-October 2011, at the earliest, and the end of 2011, at the latest. Please 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?

Existing delivery requirements should be suspended upon the effective date of SB 2(1x) for those RPS contracts not yet approved by the Commission, with new requirements to be in effect thereafter. The new requirements will require further definition by the Commission, per this proceeding, and should be in effect upon issuance of Commission decisions pertaining to such definitions. Implementation of existing rules after enactment of SB 2(1x) would go against the clear intent of the legislation to be in effect on the effective date, with the de facto commercial situation of the need for detailed Commission guidance per decisions issued within this proceeding.

III. CONCLUSION

enXco Development Corporation thanks the Commission for its consideration of these comments and urge that the Commission act expeditiously to consider and implement the recommendations discussed herein.

Respectfully submitted,



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Attachment 1

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 comments to 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	

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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.,

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	"[*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?

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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?

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	eligible renewable energy resource shall count toward this portfolio content category."			

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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

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		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	

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	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."	

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