

**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
(Filed May 5, 2011)

**REPLY COMMENTS OF CALPINE CORPORATION
ON PORTFOLIO CONTENT CATEGORIES**

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August 19, 2011

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Calpine Corporation ("Calpine") submits the following reply to comments filed August 8, 2011 ("Opening Comments") in response to *Administrative Law Judge's Ruling Requesting Comments on Implementation of New Portfolio Content Categories for the Renewables Portfolio Standard Program* ("ALJ Ruling").¹

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

Calpine supports adoption of the definition of California balancing authorities advanced by Ormat Technologies, Inc. in its opening comments.²

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.

¹ Calpine's reply comments will not address every question addressed by parties to the proceeding; however, the questions will be numbered to match the numbering in the ALJ Ruling.

² See Opening Comments of Ormat Technologies, Inc. at 3-4.

Several parties urge the Commission to categorize all unbundled renewable energy credits (“REC”) as “Category 3”³ products regardless of the underlying generation source.⁴ These parties assert that treating all unbundled RECs the same is consistent with Senate Bill (“SB”) 2(1X).⁵ These parties, however, fail to recognize that treating all unbundled RECs as Category 3 products disregards the fundamental characteristics of the underlying RPS-eligible resource associated with the REC and is contrary to Renewables Portfolio Standard (“RPS”) policy objectives in general and the goals of SB 2(1X) in particular.

As the majority of parties recognize, RPS policy objectives dictate that unbundled RECs associated with RPS-eligible energy that otherwise satisfies section 399.16(b)(1)⁶ should be treated as Category 1 products.⁷ Section 399.16 provides that (1) RPS-eligible generation facilities that are physically “interconnected” to the transmission or distribution system; (2) the electricity produced by an RPS-eligible generation facility that is “scheduled” into a CBA without substituting electricity from another source; or (3) RPS-eligible energy that is dynamically transferred to a CBA are Category 1 products and can be used for RPS compliance purposes in the amounts provided for in section 399.16(c)(1).

³ “Category 3” refers to California Public Utilities Code section 399.16(b)(3). Unless otherwise noted, all references are to the California Public Utilities Code.

⁴ See Opening Comments of Arizona Public Service Company, Coalition of California Utility Employees, Division of Ratepayer Advocates, EnXco Development Corporation, Iberdrola Renewables, Inc. (“Iberdrola”), the Large Scale Solar Association, TransWest Express LLC and TURN.

⁵ See Opening Comments of Iberdrola at 10-11; Opening Comments of TURN at 5-6.

⁶ Section 399.16(b)(1) resources are also referred to as “Category 1” resources.

⁷ See Opening Comments from the California Municipal Utilities Association, the California Wastewater Climate Change Group, the Center for Energy Efficiency and Renewable Technologies, the City and County of San Francisco, the County Sanitation Districts of Los Angeles County, Evolution Markets, the Green Power Institute, the Independent Energy Producers Association, the Los Angeles Department of Water and Power, Noble Americas Energy Solutions LLC, NV Energy, Pacific Gas and Electric Company, Shell Energy North America, Southern California Edison Company, the Union of Concerned Scientists and the Western Power Trading Forum.

SB 2(1X) further contemplates that Category 1 products will constitute the bulk of RPS procurement⁸ because, among other benefits, these products will help “[d]isplac[e] fossil fuel consumption within the state,”⁹ “[r]educ[e] air pollution in the state,”¹⁰ and help “[m]eet[] the state’s climate change goals by reducing emissions of greenhouse gases associated with electrical generation.”¹¹ These benefits are attendant to the underlying resource and not the subsequent transaction transferring the related RECs. Thus, an unbundled REC associated with a Category 1 product furthers the same policy goals and provides the same benefits as a Category 1 bundled REC. Furthermore, treating all Category 1 RECs (whether bundled or unbundled) the same for RPS compliance purposes should increase the overall supply of Category 1 RECs which, in turn, should lower RPS compliance costs and help “stabl[ize] retail rates for electric service.”¹²

Within this context, categorizing unbundled RECs in accordance with the characteristics of the underlying product will not “eviscerate the statutory scheme” of SB 2(1X), as some parties claim.¹³ On the contrary, categorizing unbundled RECs in this manner is entirely consistent with SB 2(1X). Indeed, on its face, section 399.16(b)(3) only includes products that “do not qualify under the criteria of” Category 1 or Category 2.

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⁸ Section 399.16(c)(1) provides that Category 1 resources must account for “not less” than 50 percent of RPS procurement for the compliance period ending December 31, 2013; 65 percent of RPS procurement for the compliance period ending December 31, 2016; and 75 percent of RPS procurement thereafter.

⁹ See Section 399.11(b)(1).

¹⁰ See Section 399.11(b)(3).

¹¹ See Section 399.11(b)(4).

¹² See Section 399.11(b)(5).

¹³ See, e.g. Opening Comments of TURN at 5.

Neither California's RPS policy nor SB 2(1X) justify relegating all unbundled RECs to Category 3 status. Thus, all RECs associated with RPS-eligible energy that otherwise satisfies the portfolio content category requirements set forth in section 399.16(b)(1) should be treated as Category 1 products whether bundled or unbundled.

Respectfully submitted,

/s/

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Dated: August 19, 2011

Attorneys for Calpine Corporation

VERIFICATION

I am the attorney for the Calpine Corporation, and I have been authorized to make this verification on the behalf of Calpine Corporation. Said party is located outside of the County of San Francisco, where I have my office, and I make this verification for said party for that reason.

I have read the foregoing document and based on information and belief, believe the matters in the application to be true.

I declare under penalty of perjury that the foregoing is true and correct and executed on August 19, 2011, at San Francisco, California.

_____/s/
Jeffrey P. Gray