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 THE UNION OF CONCERNED SCIENTISTS ON THE IMPLEMENTATION OF NEW PORTFOLIO CONTENT CATEGORIES FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM

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REPLY COMMENTS OF THE UNION OF CONCERNED SCIENTISTS ON THE IMPLEMENTATION OF NEW PORTFOLIO CONTENT CATEGORIES FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM

Pursuant to the July 12, 2011 *Ruling Requesting Comments on Implementation of New Portfolio Content Categories for the Renewables Portfolio Standard Program* ("Ruling"), the Union of Concerned Scientists ("UCS") respectfully submits these reply comments in response to how the Commission should implement the portfolio content categories for the Renewables Portfolio Standard ("RPS") program, as set forth in SB 2 (1x).

I. ELECTRICITY PRODUCTS THAT ARE NOT DIRECTLY INTERCONNECTED TO A "CBA" MUST BE ABLE TO SHOW AN HOURLY OR SUBHOURLY IMPORT SCHEDULE TO MEET THE REQUIREMENTS OF § 399.16(b)(1)(A)

The plain language of § 399.16(b)(1)(A) requires that any ELIGIBLE renewable energy resource relying upon ancillary services shall maintain "an hourly or subhourly import schedule into a California balancing authority" in order to maintain "bucket 1" status. Pacific Gas and Electric Company ("PG&E"), Los Angeles Department of Water and Power ("LADWP"), and San Diego Gas and Electric Company ("SDG&E") propose to verify "bucket 1" generation by comparing WREGIS certificates (that track the electricity generated by the eligible renewable energy resource) with e-tags, which verify electricity deliveries made to California, on a monthly basis.[1] While UCS understands that WREGIS currently tracks renewable electricity generation on a monthly, not hourly basis, we interpret the statute to require proof of real-time (hourly or subhourly) generation into a California balancing authority ("CBA") in order to qualify as a

[1] PG&E at 11; LADWP at 7; SDG&E at 4.

"bucket 1" resource. Several other parties acknowledge the fact that hourly metered data exists and could be used for such verification purposes.[2]

Furthermore, UCS believes it's important that the hourly metered data and e-tags be provided to the California Energy Commission ("CEC") for verification. Southern California Edison ("SCE") proposes to NOT submit "e-tag, schedule, metering, and other supporting data that provides evidence of the product categorization at the time of the showing."[3] UCS sees no reason to withhold necessary verification data, even if the verification process cannot be automated at this time.

In addition, UCS disagrees with Powerex that unbundled renewable energy credits ("RECs") can be used to "true up" non-renewable electricity that provided ancillary services and meet the requirements of § 399.16(b)(1).[4] Unless electricity from an eligible renewable energy resource can be delivered into a CBA on an hourly or subhourly schedule, it should fail to meet the requirements of § 399.16(b)(1).

II. FIRMED AND SHAPED ELECTRICITY PRODUCTS THAT PROVIDE AN INCREMENTAL ELECTRICITY IMPORT SHOULD PROVIDE VALUE BEYOND REC-ONLY TRANSACTIONS

Most parties that submitted initial comments on the Ruling responded to questions 12, 13, and 14 which, when combined together, address what types of eligible renewable energy products should qualify for § 399.16(b)(2). The diversity of party comments indicates that there is no singular operational definition of "firmed and shaped eligible renewable energy resource electricity products providing incremental electricity…" in use today. UCS does not believe it would be appropriate for the Commission to simply continue using the CEC's existing definition

[2] Powerex at 5; TransWest at 10; Iberdrola at 4; enXco at 8.
[3] SCE at 4.
[4] Powerex at 8.

of "firmed and shaped" electricity products as CMUA, WPTF, Shell Energy, and AReM suggest.[5] In fact, the Legislature took specific steps to differentiate out-of-state renewable energy transactions that do not deliver renewable electricity into a CBA on a real-time basis but nevertheless provide a distinctive and additional benefit to California ratepayers beyond the value contained in REC-only transactions. If the Legislature did not specifically intend to create a meaningful distinction between "firmed and shaped" electricity products and "REC-only" electricity products, it would not have created separate portfolio content categories, or redefined "firmed and shaped" beyond the existing CEC definition, which allows transactions to appear as "firmed and shaped" when they are functionally equivalent to REC-only deals.

SB 2 (1x) materially changes the CEC's definition of "firmed and shaped" electricity products by requiring that such transactions provide "incremental" electricity to a CBA. UCS strongly agrees with enXco that load-serving entities ("LSEs") should not be allowed to simply "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."[6] PG&E and SCE propose to define "incremental electricity" as any electricity that is imported pursuant to a contract signed on or after June 1, 2010.[7] UCS fails to see any way in which this proposal is meaningful for future RPS transactions. PG&E and SCE's proposal would allow virtually *any* electricity import, except for those associated with contracts that existed as of June 1, 2010, to meet the requirements of § 399.16(b)(2). For example, electricity deliveries stemming from a contract that was executed in 2011 would still be considered "incremental" when bundled to RECs in 2015. Moreover,

[5] This was suggested by CMUA at 7; WPTF at 8; Shell Energy at 7; AReM at 11.
[6] enXco at 13.
[7] SCE at 18; PG&E at 21.

electricity from facilities were already delivering electricity to California on June 1, 2010 could be tagged to RECs and called incremental as long as the deliveries occurred through a contract that was renegotiated after June 1, 2010.

UCS suggests that the most straightforward way to define contracts that meet the requirements of § 399.16(b)(2) is to require certain transactional elements that can be clearly verified through the terms of a contract and provide additional benefits to ratepayers. UCS agrees with Iberdrola, The Utility Reform Network ("TURN"), the Center for Energy Efficiency and Renewable Technologies ("CEERT"), and the Independent Energy Producers' Association ("IEP") that "firmed and shaped" transactions should include the purchase of energy and RECs from an eligible renewable energy resource, as well as firming and shaping services that will deliver an incremental electricity import to California. The terms of the firming and shaping product must be provided at a fixed price that corresponds with the associated renewable energy contract.[8] UCS also agrees with TURN, CEERT and Iberdrola that incremental electricity should be defined as electricity that is not in the portfolio of the retail seller at the time the contract is executed.[9]

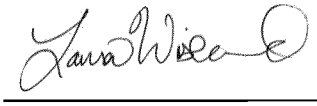
UCS believes that the criteria suggested above are straightforward, easily verified, and provide additional ratepayer benefits beyond REC-only transactions because they represent a complete package for both the LSE and the renewable energy provider in a way that supports the development of new renewable energy resources, provides a price hedge value to the LSE, and provides California with an additional electricity import.

[8] Iberdrola at 16; TURN at 8; CEERT at 14; IEP at 12.
[9] TURN at 8; CEERT at 14; Iberdrola at 17.

III. PORTFOLIO CONTENT LIMITS SHOULD BE APPLIED TO PROCUREMENT THAT OCCURRED ON OR AFTER JUNE 1, 2010

The portfolio content limits in § 399.16(c) apply to "all procurement credited towards each compliance period" and since the first compliance period established in SB 2 (1x) begins on Jan. 1, 2011, the portfolio content limits shall apply towards all procurement that will be used to meet the compliance requirements that begin Jan. 1, 2011. However, SB 2 (1x) explicitly categorizes contracts that were signed before June 1, 2010 as immune from the portfolio content limits. Therefore, any procurement contracts that were signed on or after June 1, 2010 should be subject to the limits imposed by § 399.16(c). This position is supported by PG&E and IEP.[10] SCE, AReM, and WPTF suggest that procurement content limits should apply starting Jan. 1, 2011 or later.[11] Since SB 2 (1x) explicitly grandfathered contracts signed before June 1, 2010 from the portfolio content limits, there should be no question that such limits apply to contracts signed on or after June 1, 2010.

Respectfully submitted,



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[10] PG&E at 27; IEP at 14.
[11] SCE at 25; AReM at 13; WPTF at 12.

VERIFICATION

I, Laura Wisland, am a representative of the Union of Concerned Scientists and am authorized to make this verification on the organization's behalf. The statements in the foregoing document are true to the best of my knowledge, except for those matters which are stated on information and belief, and as to those matters, I believe them to be true.

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

Executed on August 19, 2011 in Berkeley, California.

Laura Wisland