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)

COMMENTS OF SEMPRA GENERATION ON ALJ RULING REQUESTING COMMENTS ON IMPLEMENTATION OF NEW PORTFOLIO CONTENT CATEGORIES FOR THE RPS PROGRAM

Daniel A. King
Senior Counsel
101 Ash Street, HQ 13
San Diego, CA 92101
(619) 696-4350 (telephone)
(619) 699-1880 (facsimile)
daking@sempragerneration.com

Attorney for
SEMPRA GENERATION

August 8, 2011

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)

COMMENTS OF SEMPRA GENERATION ON ALJ RULING REQUESTING COMMENTS ON IMPLEMENTATION OF NEW PORTFOLIO CONTENT CATEGORIES FOR THE RPS PROGRAM

I. INTRODUCTION

Pursuant to the schedule set forth in the "Administrative Law Judge's Ruling Requesting Comments on Implementation of New Portfolio Content Categories for the Renewables Portfolio Standard Program" issued on July 12, 2011 ("Ruling"), Sempra Generation hereby submits its Opening Comments in the above-captioned proceeding.

II. RESPONSES TO QUESTIONS POSED IN RULING

1. **Section 399.16(b)(1) describes "eligible renewable energy resource electricity products" that meet certain criteria. "Electricity products" is not defined in the statute. Should this term be interpreted as meaning "RPS procurement transactions"?**

The use of the term "product" in the legislation is significant in characterizing and differentiating the value of transactions involving various renewable resources provided to California customers. California Public Utilities Code Section 399.16(a) states (emphasis added):

> Various electricity products from eligible renewable energy resources located within the WECC transmission network service area shall be eligible to comply with the renewables portfolio standard procurement

SB_GT&S_0751306

> requirements in Section 399.15. These electricity products may be differentiated by ***their impacts on the operation of the grid in supplying electricity***, as well as, meeting the requirements of this article.

For example, the product provided by the purchase of a Renewable Energy Certficate ("REC") from a remote renewable resource in the WECC without the transmittal of incremental energy or capacity to California is of lesser value to customers in terms of lowering marginal energy and capacity costs, than the incremental energy and capacity provided by direct delivery of the renewable energy to California described in Section 399.16(b)(1).

Further, directly delivered renewable energy would effectively displace fossil energy and emissions otherwise required to serve load in California, and provide for a more diversified energy mix. A focus on defining transactions that do not themselves differentiate based on the value they provide to California customers would be inconsistent with the objectives of the legislation defined in Section 399.11(b), which states (emphasis added):

> (b) Achieving the renewables portfolio standard through the procurement of various electricity products from eligible renewable energy resources is intended to provide unique benefits to California, including all of the following, each of which independently justifies the program:
> ***(1) Displacing fossil fuel consumption within the state.***
> (2) Adding new electrical generating facilities in the transmission network within the Western Electricity Coordinating Council service area.
> ***(3) Reducing air pollution in the state.***
> ***(4) Meeting the state's climate change goals by reducing emissions of greenhouse gases associated with electrical generation.***
> (5) Promoting stable retail rates for electric service.
> ***(6) Meeting the state's need for a diversified and balanced energy generation portfolio.***
> ***(7) Assistance with meeting the state's resource adequacy requirements.***

(8) Contributing to the safe and reliable operation of the electrical grid, including providing predictable electrical supply, voltage support, lower line losses, and congestion relief.
(9) Implementing the state's transmission and land use planning activities related to development of eligible renewable energy resources.

The Commission should therefore ensure that its definitions of acceptable transactions under Section 399.16 (b)(1),(2) and (3) appropriately differentiate based on the value attributes they provide to California consumers.

2. **Should the first sentence of § 399.16(b)(1)(A) be interpreted as meaning: "<u>The RPS-eligible generation facility producing the electricity has</u> a first point of interconnection with a California balancing authority, <u>or has</u> a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or <u>the electricity produced by the RPS-eligible generation facility is</u> scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source."**

Yes. This definition appropriately describes renewable resources that provide energy and capacity directly to the California grid, and therefore provide the highest value to California consumers.

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

ffi

Current California balancing areas ("CBAs") include the California Independent System Operator ("CAISO"), Los Angeles Department of Water and Power ("LADWP"), Balancing Authority of Northern California, Imperial Irrigation District ("IID") and Turlock Irrigation District ("TID"). Sierra Pacific and PacifiCorp balancing areas also extend within the borders of California to serve a small California load, although they primarily serve customers in Nevada and Oregon. California customers benefit little from the interconnection of renewables to these two balancing areas, and to a lesser degree in terms of lowering capacity and energy prices generally within the state, and

therefore these two areas should be excluded from the applicability under Section 399.12(d).

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.**

ffi

Apart from resources directly connected to a CBA or associated distribution facility, this phrase should be interpreted as a configuration involving a dynamic transfer arrangement between the resource and a CBA. Dynamic transfers require firm transmission to a CBA, and thereby provide for the same contemporaneous delivery of capacity and energy to California consumers as renewable resources directly connected to a CBA or associated distribution systems. Configurations which provide functionally equivalent energy and capacity delivery (i.e. via firm transmission for the full contract capacity) from the renewable resource to California loads may also qualify under this interpretation.

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 D.10-03-021, regarding transactions from firm transmission?**

ffi

The definition in question 4 above does not resolve the need to define the firm transmission requirements necessary to ensure California consumers receive the capacity and energy benefits of direct delivery equivalent in value to an on-system renewable resource over the long term.

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.**

ffi

Transactions involving renewable resource dynamic transfers and firm transmission deliveries to California may be verified via a contiguous trail of NERC e-

Tags identifying the renewable resource as the initial point of receipt to and including the CBA as the final point of delivery. The e-Tag trail should be verified for each same scheduling interval (current hourly intertie scheduling intervals may be evolving into more granular scheduling intervals) involving the renewable resource generation, to confirm contemporaneous delivery.

Sempra Generation has no comment regarding the roles of the California Energy Commission ("CEC") and CPUC in verifying this requirement.

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.**

ffi

Ancillary services may be required to maintain California import schedules with interconnected non-CBAs, and generally in order to balance area generation and load variances within the scheduling interval. However, if the renewable resource output is less than the scheduled import quantity across the intertie in any interval, the actual renewable generation would be used in determining the quantity delivered to California and contributing to the RPS requirement. All else being equal, if the renewable generation is greater than the scheduled quantity in any interval, the renewable generation could contribute to a need for decremental dispatch in its host balancing authority, and the renewable generation would be considered to serve the load in the non-CBA.

SB_GT&S_0751310

8. **Should § 399.16(b)(1)(B) be interpreted as meaning: "<u>The RPS-eligible generation facility producing the electricity has</u> an agreement to dynamically transfer electricity to a California balancing authority."**

ffi

Yes. The dynamic transfer agreement must be between the <u>renewable resource</u> or controlling entity and a CBA. This ensures that California receives equivalent energy and capacity benefits as provided by the same resource directly to the California grid.

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"?**

ffi

Yes.

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.

ffi

In the event that RECs are unbundled from a California interconnected renewable generation, Section 399.16(b)(3) could apply. This conclusion is based on the circumstance that the associated renewable capacity and energy may exported from California once unbundled from the REC. In this case, the only value retained by California customers is the REC, and the REC transaction would be applicable under Section 399.16(b)(3). The determination should hinge on whether the unbundled attributes continue to provide California customers with the same value as the bundled transaction.

ffi

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.

ffi

With respect to the first question, yes, the phrase should be interpreted as "any fraction of the electricity generated by the eligible renewable resource," inasmuch as this interpretation is most consistent with the language of the statute.

WREGIS should be used to track the creation and ownership of REC certificates.

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

ffi

See definition discussed in 13 below.

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

ffi

"Firmed and shaped" energy should be interpreted as renewable resource output that is not delivered via an associated firm transmission agreement or dynamically transferred pursuant to a dynamic transfer agreement with a CBA within the intertie scheduling interval. Also see the response to question 7.

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" should be defined as energy whose point of receipt on the NERC e-Tag is the same balancing authority as the renewable resource. The generation of the renewable resource is the only source for incremental energy by virtue of its operation. Energy which would have otherwise been available for purchase from other resources is not incremental.

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?

ffi

Section 399.16(b)(2) should apply to renewable resource energy generated outside the boundaries of a CBA that is not transmitted via firm transmission or dynamically transferred pursuant to a dynamic transfer agreement with a CBA.

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.**

ffi

Yes, since firmed and shaped energy does not provide the contemporaneous delivery of energy from the renewable resource. "Firmed and shaped" energy should be interpreted as renewable resource output that is not delivered via an associated firm transmission agreement or dynamically transferred pursuant to a dynamic transfer agreement with a CBA within the same intertie scheduling interval.

17. **Section 399.16(d) provides that: "any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full toward 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? Include the consideration of:

    - the requirements in D.07-05-028 (implementing current § 399.14(b)) that, in order for procurement from a short-term contract with an existing facility to count for RPS compliance, a minimum quantity of contracts longer than 10 years and/or contracts with new facilities must be signed in the same year as the short-term contract sought to be counted;

    - the requirement in new § 399.13(b) for minimum procurement from contracts of at least 10 years' duration;

    - the restrictions set out in new § 399.13(a)(4)(B) on the use of procurement from contracts of less than 10 years' duration and on procurement meeting the portfolio content of § 399.16(b)(3) in accumulating excess procurement that can be applied to subsequent compliance periods.

ffi

The phrase "count in full" should be interpreted consistent with the response to question 18.

18. **Please discuss the relationship between the instruction in § 399.16(d), set forth above, and the rules for the use of tradable RECs (TRECs) set out in D.10-03-021 (as modified by D.11-01-025), and in D.11-01-026 (for example, temporary limits on TRECs usage; application of the temporary TREC limits to previously signed contracts).**

ffi

Section 399.16(d) should grandfather existing contracts only to the degree necessary (and as long as necessary) to allow the contracts to be effective within the applicable portfolio content category. This implementation would be most consistent with the principle embodied in D.10-03-021.

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)?**

ffi

The limitations in Section 399.16(d) should go into effect on the effective date of SB 2 (1X), 90 days after the end of the special session. In this regard, the Commission should work to finalize the implementation details as soon as possible.

20. **SB 2 (1x) amends Pub. Res. Code § 25741 to, among other things, eliminate the current requirement that RPS-eligible energy must be "delivered" to end-use retail customers in California. The requirement for delivery is implemented by the CEC in its *Renewables Portfolio Standard Eligibility Guidebook (RPS Eligibility Guidebook)* (3d ed. December 19, 2007). It is also incorporated into the characterization of a REC in D.08-08-028.**

    At what point in time should the Commission consider the "delivery" requirement ended (e.g., on the effective date of SB 2 (1x); or as of January 1, 2011; or on the effective date of the CEC's revisions to the *RPS Eligibility Guidebook* reflecting the repeal)?

    Does the "delivery" requirement end at that time for generation under RPS contracts of utilities that were already approved by the Commission? Only for generation under contracts signed by utilities after the end of the delivery requirement?

    How should the plan you propose be applied to ESPs? to CCAs?

ffi

Sempra Generation believes that the delivery requirement under California Public Resources Code Section 25741 should be interpreted as ending when SB 2 (1X) is effective. The protocol should apply equally to all load serving entities ("LSEs").

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?

ffi

In addition to the renewable resource contract, contracts for firm transmission, dynamic transfer agreements, and firmed and shaped power contracts from the same balancing authority may be needed to properly define the transaction category.

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?

ffi

Sempra Generation has no opinion on whether the CEC or the Commission should verify the portfolio content categories, but believes that verification is needed to ensure the legislative requirements are met. E-Tag information is needed to verify delivery of incremental energy from the renewable resource to California loads for categories under Section 399.16(b)(1) and (2).

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.

ffi

See response to question 1 regarding the value to California customers of incremental firm delivery of RPS energy and capacity embodied in Section 399.16(b)(1), and lower value provided by Sections 399.16(b)(2) and (b)(3).

SB_GT&S_0751316

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.

The Commission should move forward with defining the implementation details of the legislation as soon as possible to reduce delay in the event that the special session is closed in the near future.

III. CONCLUSION

Sempra Generation respectfully requests that the above comments be taken into account as the Commission considers how to implement the numerous changes SB 2 (1x) makes to the RPS program.

Respectfully submitted,

/s/

Daniel A. King
101 Ash Street, HQ 13
San Diego, CA 92101
(619) 696-4350 (telephone)
(619) 699-1880 (facsimile)
daking@semprageneration.com

Attorney for
SEMPRA GENERATION

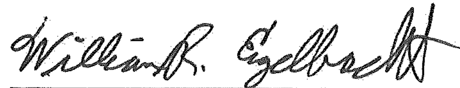
August 8, 2011

VERIFICATION

I am an employee of Sempra Generation and am authorized to make this verification on its behalf. The statements in the foregoing **COMMENTS OF SEMPRA GENERATION ON ALJ RULING REQUESTING COMMENTS ON IMPLEMENATION OF NEW PORTFOLIO CONTENT CATEGORIES FOR THE RPS PROGRAM** are true of my own knowledge, except as to matters therein stated on information and belief, and as to those matters, I believe them to be true.

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

Executed on this 8th day of August, 2011, at San Diego, California.



William R. Engelbrecht
Vice-President - Planning & Construction