

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue
Implementation and Administration of
California Renewable Portfolio Standard Program

Rulemaking. 11-05-005
(Filed May 5, 2011)

**OPENING COMMENTS OF NEXTERA ENERGY RESOURCES, LLC
IN RESPONSE TO ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING
COMMENTS ON IMPLEMENTATION OF NEW PORTFOLIO CONTENT
CATEGORIES FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM**

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On behalf of NextEra Energy Resources, LLC

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Pursuant to the July 12, 2011 Administrative Law Judge’s Ruling Requesting Comments on Implementation of New Portfolio Content Categories for the Renewables Portfolio Standard Program (“ALJ Ruling”), NextEra Energy Resources, LLC (“NextEra”) submits these opening comments addressing the addition of “portfolio content categories” enacted in Senate Bill 2 (1x) (“SB 2 (1x)”) and quantitative rules for the use of transactions in each category for renewable portfolio standard (“RPS”) compliance by retail sellers.

I. INTRODUCTION

The ALJ Ruling requests input on a number of specific questions regarding the new portfolio content categories established in SB 2 (1x). NextEra has participated with numerous other stakeholders in discussions designed to reach consensus on as many of the issues presented in the ALJ Ruling as possible, with the goal of facilitating an efficient and expedited implementation of the new product content requirements. The participating stakeholders were able to reach agreement on many implementation issues. The results of that collaborative process are presented in an attachment to a filing being submitted today by Pacific Gas and Electric Company. That attachment, labeled “RPS Product Matrix – Reference Proposal Outlining Areas of Broad Consensus and Open Issues” (“Matrix”), identifies the areas where parties have reached consensus regarding how a particular RPS product or content category should be defined, and regarding illustrative contract and interconnection structures. NextEra agrees with and supports all of the “consensus” topics in the Matrix and urges the California

Public Utilities Commission (“Commission” or “CPUC”) to afford significant weight to stakeholders’ agreement on those topics and to adopt the consensus determinations in its RPS implementation rules.

The far right column of the Matrix identifies the “open issues” or issues for which consensus has not been reached through the collaborative process. As indicated on the Matrix, in addition to identifying the areas where broad consensus exists, stakeholders intended to highlight the areas where there is not broad consensus, so as to allow individual parties to focus on those “open” issues in their comments in response to the ALJ Ruling. This reflects the view that the open issues comprise the issues that require particular attention and consideration in this proceeding, whereas the Commission should be able to address the larger group of consensus topics in short order based on the broad spectrum of interests represented by parties who participated in producing the Matrix.

Accordingly, in these opening comments, NextEra focuses on presenting its views and recommendations on the open issues identified in the far right column of the Matrix. Below NextEra addresses the open issues in the order in which they are listed in the Matrix.¹

II. COMMENTS ON OPEN ISSUES IN THE MATRIX

A. Bucket #1(a) (page 3 of the Matrix) – Standard for New California Balancing Authorities (“CBAs”)

The first open issue in the Matrix concerns so-called “Bucket #1(a),” referring to the portion of Section 399.16(b)(1)(A) of the Public Utilities Code (“PU Code”) that applies to “eligible renewable energy resource electricity products” that “have a first point of interconnection with a California balancing authority.” As indicated in the Matrix, there is broad consensus that a Bucket #1(a) product must be from a facility that is an eligible renewable energy resource located within the Western Electricity Coordinating Council (“WECC”) and directly interconnected with a CBA. There is also consensus that CBAs for this purpose include the California Independent System Operator (“CAISO”), Los Angeles Department of Water and

Power, Turlock Irrigation District, Imperial Irrigation District, and Balancing Authority of Northern California (formerly SMUD). These consensus items address Questions 2 and 3 in the ALJ Ruling.

The open Bucket #1(a) issue identified in the Matrix is:

- 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?

NextEra's recommendation is that if a new balancing authority is developed in the future, the Commission should consider whether that balancing authority qualifies as a "CBA" for purposes of the Bucket #1(a) product at the time. It is not necessary to establish a standard in advance. Given the large number of complex RPS implementation issues that need to be resolved as soon as possible, the Commission should not devote time or attention to addressing this issue now.

B. Bucket #1(b) (pages 3-4 of the Matrix) – Retention of “Bucket” Status for a Renewable Energy Credit (“REC”)

The Matrix lists two open issues for Bucket #1(b), referring to the portion of Section 399.16(b)(1)(A) of the PU Code that applies to “eligible renewable energy resource electricity products” that “have a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area.” NextEra comments on the second Bucket #1(b) open issue, which is:

- 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?

¹ NextEra is not providing comments on every open issue in the Matrix but reserves the right to address all open issues and all other issues identified in the ALJ Ruling and the Matrix in reply to other parties' opening comments.

NextEra supports a determination that the “bucket” attribute will remain with the REC for the life of the REC (*i.e.*, 3 years). For example, if the original bundled transaction meets the Bucket #1 standard and the REC is subsequently sold (and possibly resold), the REC would carry with it the Bucket #1 status.

Currently, meter data from the resources and E-tagged quantities are submitted to the California Energy Commission (“CEC”) for verification. It is in this process that a determination should be made about the quantities of the RECs that qualify for Bucket #1, Bucket #2, or Bucket #3.

Allowing for RECs to carry with them a Bucket #1 quality allows for the recognition of the premium nature of the Bucket #1 product. SB 2 (1x) created a clear preference for transactions that qualify under Bucket #1. Accordingly, it is fair that the value of the transaction be conveyed to both renewable suppliers and buyers. For buyers in particular, who are likely to strive to maximize Bucket #1 products for compliance, it is important to be able to manage this element of the portfolio to minimize compliance costs. Buyers should be able to manage their portfolios over time in a way that allows them to maximize compliance while minimizing their costs to consumers. For example, if in a particular compliance period a load serving entity has a surplus of Bucket #1 products, it should be able to sell the excess without losing the value of the premium product.

C. Bucket #1(c) (page 5 of the Matrix) – Period of Netting and Additional Tracking and Verification Methods

The Matrix also lists two open issues for Bucket #1(c), referring to the portion of Section 399.16(b)(1)(A) of the PU Code that applies to “eligible renewable energy resource electricity products” that “are scheduled from the eligible renewable resource into a California Balancing Authority without substituting electricity from another source.” Section 399.16(b)(1)(A) further specifies that “the use of another source to provide real-time ancillary services required to maintain hourly or subhourly import schedule into a California balancing authority shall be permitted, but only the fraction of the schedule actually generated by the eligible renewable resource shall count toward this portfolio content category.” As shown in the Matrix, participating stakeholders agree that the Bucket #1(c) product definition should

provide that energy must be scheduled to a CBA from an eligible renewable energy resource located within the WECC and documented using E-tag information for generator source and delivery sink. Stakeholders further agree that the schedule into the CBA may be day-ahead, hourly, or sub-hourly, and that only the lesser of ERR metered data and the final adjusted E-tags is eligible as Bucket #1(c) energy. NextEra believes that the distinguishing features of a Bucket #1 transaction are: (1) the energy is delivered “without substitution;” and (2) the E-tag’s resource identification and the resource from which the RECs are produced are the same.

NextEra agrees that these product definitions are appropriate for resources that are not directly connected to a CBA, but that schedule the energy into a CBA without substitution from another source. The approach most consistent with Section 399.16(b)(1)(A) is to take the “lesser of” the meter data from the resource, which shows actual production (and is consistent with the number of RECs being generated), and the amount of energy documented using an E-tag, which shows the amount of energy being transmitted into a CBA. This “lesser of” figure demonstrates the amount of energy transferred without substituting with another energy source.

The two Bucket #1(c) open issues are:

- 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?

For the first open issue, NextEra believes that the simplest and most durable approach is to show the netted figure on a monthly basis (demonstrated in the annual CEC compliance filings). This approach streamlines compliance demonstration and is consistent with the variable nature of many renewable resources. In addition, the CAISO market in its renewable integration process is moving to more granular, within hour, schedules at the interties (*e.g.*, elimination of the hour ahead market and 15 minute schedules).² This process is beneficial for variable

² See CAISO Renewable Integration Market Vision and RoadMap: Initial Straw Proposal dated July 1, 2011

resources because the closer in time that the schedule is submitted to actual energy production, the less variability and deviation that results. Therefore, rather than build in a requirement for hourly netting, which is likely to require adjustment as the CAISO moves to more granular, intra-hour schedules, a superior approach is to simply net the meter data against the E-tagged amount on a monthly basis. NextEra also believes that the CEC is in the best position to verify the amount of energy that was delivered without substitution in the annual compliance reports. While the Commission clearly has a role in detailing the definitions of the various Buckets, it makes sense that the CEC will continue to verify E-tags and RECs. Therefore, there is now an expanded role for the CEC to measure the amount of energy delivered to a CBA without substitution.

On the second open issue, NextEra does not see any need for additional technology to compute the net between meter data and E-tags. Moreover, if the Commission were to require netting for each hour of the day for each resource qualifying for Bucket #1, it would certainly increase the volume of data and increase the amount of verification required. NextEra does not see any incremental value of a more granular verification mechanism when balanced with the additional amount of data required to show compliance.

D. Bucket #2 (pages 7-8 of the Matrix) – Firmed and Shaped Transactions

The Matrix identifies a number of open issues for “Bucket #2”, referring to transactions that are defined in Section 399.16(b)(2) of the PU Code as “firmed and shaped eligible renewable energy resource electricity products providing incremental electricity and scheduled into a California balancing authority.” As shown in the Matrix, participating stakeholders agree that the Bucket #2 product definition should provide that (1) electricity products must derive from eligible renewable energy resources located within the WECC, (2) the REC must be “E-tagged” to energy scheduled for delivery to a CBA, (3) energy to which the REC is “E-tagged” must be “incremental,” (4) energy to which the REC is “E-tagged” must have been delivered to the CBA within the same calendar year of the creation of the REC within WREGIS.

NextEra agrees that it is important to classify the distinguishing features of Bucket #2 transactions. For this reason, NextEra supports a definition of “firmed and shaped” transactions that contains the following features:

i. A bundled transaction between an eligible renewable energy resource and a retail seller, procurement entity, or third party that includes both energy and the REC;

ii. The energy associated with the transaction must be incremental. The term “incremental” should be defined as an energy transaction that would not have been entered into but for the firm and shaped transaction.

iii. The difference between a Bucket #1 and a Bucket #2 transaction is: (1) Bucket #1 energy cannot be substituted by another source whereas a Bucket #2 transaction can be firm and shaped with any incremental energy resource; and (2) the E-tag associated with a Bucket #2 transaction can specify any source on the E-tag associated with the REC, whereas the Bucket #1 E-tag can only specify the original eligible renewable energy resource that generated the REC.

NextEra also offers comments on the fourth open Bucket #2 issue, which is:

- 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?

In the event that a bundled RPS power purchase agreement is being firm and shaped by a separate firming and shaping agreement, there should not be a requirement that the terms of the two agreements are the same. Requiring matching contract terms will add unnecessary costs to the transaction and undermine the ability of the buyer or seller to most cost effectively firm and shape the resource.

III. CONCLUSION

NextEra appreciates the opportunity to submit these opening comments. As stated above, NextEra fully supports the consensus items listed in the Matrix and urges the Commission to adopt those conclusions in its RPS implementation requirements. NextEra also requests that the Commission adopt its recommendations for the open issues as described above.

Respectfully submitted,

/s/ Kerry Hattevik

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On behalf of NextEra Energy Resources, LLC

August 8, 2011

VERIFICATION

I, Kerry Hattevik, am the Director of West Market Affairs of NextEra Energy Resources, LLC. I am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing copy of *Opening Comments of NextEra Energy Resources, LLC in Response to Administrative Law Judge's Ruling Requesting Comments on Implementation of New Portfolio Content Categories for the Renewables Portfolio Standard Program* are true of my own knowledge, except as to the matters which are therein 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 8, 2011 at El Cerrito, California.

/s/ Kerry Hattevik

Kerry Hattevik

Director of West Market Affairs, NextEra Energy Resources, LLC