

**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)
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REPLY COMMENTS OF TRANSWEST EXPRESS LLC

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Pursuant to the July 12, 2011, Administrative Law Judge’s (“ALJ”) Ruling Requesting Comments on Implementation of New Portfolio Content Categories for the Renewables Portfolio Standard Program (“July 12 Ruling”), TransWest Express LLC (“TransWest”) respectfully submits its reply comments regarding administration of the California Renewables Portfolio Standard program (“RPS”) pursuant to the recently signed California Senate Bill (SB) 2 (1X).¹

I. REPLY COMMENTS

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.**

The majority of parties’ responses to Question 4 were generally consistent with TransWest’s August 8 Comments, namely, that this phrase means renewable energy (i) scheduled on an hourly or subhourly basis into a “sink” BAA that is a California BAA (“CBAA”), (ii) generated in the same hour it is scheduled, and (iii) appropriately tagged and measured through metering as needed for verification to ensure no substitution of non-eligible

¹ Senate Bill 2 (2011-12 First Extraordinary Session, Stats 2011, Ch 1) (“SB 2 (1X)”). TransWest filed its Initial Comments in this proceeding on August 8, 2011 (“August 8 Comments”).

energy (and appropriate deduction of any real-time, non-renewable ancillary services).² To the extent that the Commission deems it necessary to issue an order providing further interpretation of these types of transactions, TransWest urges the Commission to adopt an interpretation consistent with its August 8 Comments.

Initial comments submitted by parties participating in the Group RPS Product Matrix identified as an “open issue” the period of time during which a facility’s meter data should be netted against final adjusted e-tags for purposes of calculating volumes of so-called “Bucket 1(c)” products delivered by such facility.³ A second “open issue” identified for Bucket 1(c) products asks what additional technology, data, or systems, if any, are needed to track and verify comparisons of meter data with final adjusted e-tags.⁴ Regarding the first “open issue,” a verification process that uses greater than an hourly verification period (e.g. monthly as suggested by some parties),⁵ will not provide the required verification for each and every hour to ensure that only the renewable energy that was scheduled and produced in that hour will be credited to this bucket. If a greater time period than an hour is used to compare e-tag data and meter data, then it would not be possible to ensure that only the renewable energy scheduled for

² See August 8 Comments at 6-9; see also RPS Product Matrix, Reference Proposal Outlining Areas of Broad Consensus and Open Issues at 5 (listing similar production description characteristics) (“Group RPS Product Matrix”), reflecting participation by the Coalition of California Utility Employees (“California Utility Employees”); Division of Ratepayer Advocates (“DRA”); enXco Development Corp. (“enXco”); First Solar; Iberdrola Renewables, Inc. (“Iberdrola”); Independent Energy Producers Association (“IEPA”); Large-Scale Solar Association; NextEra Energy Resources, LLC; Pacific Gas & Electric Company (“PG&E”); San Diego Gas and Electric Company (“SDG&E”); Southern California Edison Company (“SCE”); Sunpower; The Utility Reform Network; and the Union of Concerned Scientists. See also Western Power Trading Forum at 4; LS Power Associates, LP at 2; BP Wind Energy North America (“BP Wind”) at 4; Comments of the Alliance for Retail Energy Markets at 4; Iberdrola at 4-5.

³ See Group RPS Product Matrix at 6.

⁴ *Id.*

⁵ See, e.g., PG&E Initial Comments at 4 (stating the calculation “should be done on a monthly net basis”); Los Angeles Department of Water and Power (“LADWP”) Initial Comments at 7 (same); see also SDG&E Initial Comments under Question 4 (appearing to assume netting of imbalance energy would be on a monthly basis).

that hour and produced in that same hour would be credited as Bucket 1(c) product content.

Within TransWest's proposal, as stated in its August 8 Comments,⁶ a transaction where energy is produced in one hour and credited for another hour (*i.e.*, where there is a temporal "disconnect" between when renewable energy is produced and delivered into a CBAA) should be considered a firm and shaped ("Bucket 2") product. Although the Group RPS Product Matrix contains examples similar to those described in TransWest's comments⁷ showing how actual renewable amounts delivered will be equal to or less than what is scheduled on an hourly basis (*i.e.*, due to deducting for non-renewable ancillary services), certain parties within this group appear to advocate that the amount credited is the lower of the aggregate of all hourly schedules or the total energy produced over the *month*. An hourly verification process for an hourly scheduled product will develop a much different (lower) result because the Bucket 1(c) amount would be the aggregate of the lower of the schedule or the renewable energy produced for each hour in the month.

To meet the intentionally strict operational requirements for Bucket 1 (*i.e.* for out-of-state resources to be counted within the same category as in-state resources), it is imperative that hourly schedules are verified with hourly meter data from the facility. The technology, data and systems needed to obtain and verify hourly meter data are required and used throughout CBAAAs for all resources that are included within the hourly market settlement processes administered by the CAISO and used by the broader LSE generation market. While the cost of such devices may be relatively more burdensome to smaller scale renewable resource facilities (*e.g.* Qualifying Facilities smaller than 100 MW), these types of devices are standard for the large scale facilities that will be the most active participants in remote regions. Therefore,

⁶ August 8 Comments at 13-14.

⁷ *See id.* at 11.

although claims made by certain parties⁸ that modification of existing data systems to provide an hourly verification mechanism for Bucket 1(c) may create unnecessary transaction costs,⁹ ultimately, TransWest believes such claims lack merit because both the equipment and verification process described by TransWest are typical and routinely used for bulk energy import resources. The tagging and metering information would be supplied by the eligible renewable facility to the CBAA and the California purchasing utility, for later verification by the Commission and/or the California Energy Commission (“CEC”).

Various parties, including certain authors of the Group RPS Product Matrix, assume that a transaction does not need to be designated within a specific content category at the outset, and instead presume that through the verification process the output from a given facility will be codified into specific buckets as a result of the facility’s particular operational performance over a period of time.¹⁰ Although not specifically addressed in initial comments, TransWest believes that each transaction should be exclusive to a particular “bucket” and subject to verification within that content category. That is, each facility may be involved in multiple transactions for various portions of its output (e.g. 30% of facility X’s output is contracted as a Bucket 1 product, 40% of its output is contracted as a Bucket 2 product, and 30% of its output is subject to a transaction outside of California) to achieve its desired flexibility, and its output should be verified accordingly.

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.

As TransWest explained in its August 8 Comments, the combined use of NERC

⁸ See, e.g., PG&E Initial Comments at 14.

⁹ See PG&E Initial Comments at 12; SDG&E Initial Comments under Question 6.

¹⁰ SCE Initial Comments at 8 (“Example 2”); PG&E Initial Comments at 15 and Appendix B.

e-tags, WREGIS and metering information as shared through data coordination among out of state sellers and purchasing utilities will provide adequate tracking and verification of RPS hourly scheduled imports.¹¹ Most parties concur with this view¹² and, accordingly, there should be no need to delay implementation of rules associated with “Bucket 1(c)” transactions due to alleged verification concerns. Moreover, TransWest supports the comments of SCE that, until automated processes can be put in place for all transaction types, verification can be after-the-fact (with retail sellers retaining appropriate metering, e-tag and scheduling data) and there is no need at this time to overwhelm this Commission or the CEC with a complex new documentation system.¹³

TransWest notes that the process described in its initial comments for verifying both production (via metering) and delivery (via e-tags) provides sufficient information for assurance that the eligible renewable resource is in fact produced and delivered.¹⁴ TransWest emphasizes that no additional modification of the WECC or WREGIS systems is necessary to monitor RPS compliance.

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.

¹¹ August 8 Comments at 7-10.

¹² See, e.g., PG&E Initial Comments at 14; SCE Initial Comments at 4-5; Iberdrola Initial Comments at 5-6; Powerex Initial Comments at 5.

¹³ See SCE Initial Comments at 5.

¹⁴ August 8 Comments at 7-10.

TransWest urges the Commission to ensure that its analysis of “ancillary services” and “substitute energy” within its interpretation and implementation of SB 2 (1x) are separate and distinct. Within their initial comments, various parties mistakenly conflated discussions of “ancillary services” and “substitute energy.”¹⁵ It must be understood that these are two unique products / terms in the context of SB 2 (1X) used in the operation of the power system. The definitions of various “ancillary services” in the CAISO Tariff clearly delineate specific “ancillary services” and define them as distinct products under the Tariff. These ancillary services are electric capacity products that provide energy reserves for operators to use to maintain a balanced operation within and amongst balancing areas. When system operators need to call on the energy resources that are associated with these ancillary services, the energy is accounted for within the energy settlement system as either imbalance energy or some other type of system settlement. “Substitute energy,” however, as used in Section 399.16, is an energy product that replaces the renewable energy previously scheduled but not delivered in the scheduled hour that is *not* derived from the use of ancillary services. These are not interchangeable terms or products.

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.

Several parties have commented that unbundled RECs are a type of transaction that can fall within the product content definition of “Bucket 1” in subsection (b)(1) of Section

¹⁵ See, e.g., PG&E Initial Comments at 15.

399.16.¹⁶ TransWest disagrees. As explained in its August 8 Comments, the Legislature plainly separated distinct product content categories into three different “Buckets” (as they have been termed), with just one of those, “Bucket 3,” specifically mentioning unbundled RECs as a qualifying product category. This is strong evidence of intent *not* to redefine subsection (b)(1) products as including unbundled RECs, even if they were originated from in-state resources. Several other parties correctly concur with this interpretation.¹⁷

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

The definition of “firmed and shaped” referred to in TransWest’s August 8 Comments is based on the CEC definition which refers to transactions that are widely understood to mean backup electricity used to supplement output of an intermittent resource over a time period longer than an operating hour. Other parties have similarly referred to the CEC’s definition,¹⁸ or have made a similar temporal distinction between “firming” (using ancillary services) for within the hour schedules that would qualify as Bucket 1, and “firming and shaping” over periods longer than an hour, which are relevant to Bucket 2 products.¹⁹

Certain parties’ comments were less precise regarding these definitions, *i.e.*, by not specifying whether they considered transactions firmed within a scheduled hour as “firming and shaping.”²⁰ At least one party appeared to specifically contemplate that within the hour

¹⁶ See, e.g., PG&E Initial Comments at 17; SCE Initial Comments at 13.

¹⁷ See, e.g., California Utility Employees Initial Comments at 4 (“the Legislature knew what an unbundled REC was and classified it as bucket 3”); Iberdrola Initial Comments at 10 (explaining that treating unbundled RECs from in-state resources as counting under subsection (b)(1) would “subvert several goals of the law” including rate stability and non-discriminatory treatment of resources); enXco Initial Comments at 10 (stating that if solely RECs are procured, then “on its face this constitutes an unbundled REC product” that falls under bucket 3).

¹⁸ See, e.g., IEPA Initial Comments at 9.

¹⁹ SCE Initial Comments at 16.

²⁰ See, e.g., BP Wind Initial Comments at 10 (providing definitions of firming and shaping without

“firming” would constitute “firming and shaping,” which suggests that such a transaction would fall under “Bucket 2.”²¹ This position is incorrect; in fact, transactions where actual deliveries are conformed to scheduled deliveries with the use of real-time ancillary services, which may result in related imbalance energy transactions,²² are not “firmed and shaped” but rather are clearly “Bucket 1(c)” transactions as specifically set forth under Section 399.16(b)(1). This point was explained in detail by SDG&E.²³ For the purpose of implementing SB 2 (1X), one standard definition, consistent with the terms as utilized by the CEC, should be used by the Commission in its implementation of the RPS program to ensure that there is no deviation to the term “real-time ancillary services” as a condition for qualification for Bucket 1(c) transactions.

Certain parties’ initial comments posit that firming and shaping should include the re-associating or recombining of unbundled RECs with other deliveries at different times.²⁴ TransWest believes that the Commission should reject this definition of firming and shaping and not allow these types of transactions to be eligible as scheduled renewable imports. This type of re-associating is contrary to the language and intent of SB 2 (1X). On the contrary, it would create an unintended loophole with potentially severe negative environmental impacts if the delivered resource recombined with the REC is a polluting resource.

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

See response to 12 above.

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

clearly making the specific hourly timing distinction); Union of Concerned Scientists Initial Comments at 5-6 (same).

²¹ See LADWP Initial Comments at 11-12 (specifically defining firming and shaping transactions to include within the hour scheduled transactions).

²² See *infra* page 6 (describing the relationship between ancillary services and imbalance energy).

²³ See SDG&E Initial Comments under Question 4 and Question 12.

²⁴ See Group RPS Product Matrix.

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.

See response to 12 above.

II. CONCLUSION

TransWest urges the Commission to adopt promptly appropriate rules implementing SB 2 (1X) to facilitate the ability of those entities subject to the 33% RPS standard to meet their procurement targets, consistent with the comments herein, and in TransWest's August 8, 2011, Initial Comments.

Respectfully submitted,

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On behalf of TransWest Express LLC

Dated: August 19, 2011

VERIFICATION

I am an officer of TransWest Express LLC, and am authorized to make this verification on its behalf. I have read the foregoing *Reply Comments of TransWest Express LLC*'s dated August 19, 2011. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or 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 this 19th day of August, 2011 at Denver, Colorado.

/s/ Roxane J. Perruso
Roxane J. Perruso
Vice President
TransWest Express LLC