

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
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES
ON NEW RPS PROCUREMENT TARGETS AND COMPLIANCE**

September 12, 2011

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The Center for Energy Efficiency and Renewable Technologies (CEERT) respectfully submits these Reply Comments on new Renewable Portfolio Standard (RPS) Program targets and compliance requirements. These Reply Comments are filed and served pursuant to the Commission's Rules of Practice and Procedure and the Administrative Law Judge (ALJ) Simon's Ruling of July 15, 2011 (July 15 ALJ's Ruling).

**CEERT SUPPORTS THE POSITIONS TAKEN BY UCS AND AREM
THAT THE 14% OF RETAIL SALES IN 2010 MUST BE
MET BY ACTUAL RPS-COMPLIANT ENERGY DELIVERIES.**

The July 15 ALJ's Ruling posed five overall questions for comments. Question 3 focused on the provision in new Public Utilities (PU) Code Section 399.15(a), added by Senate Bill 1X 2 (Stats 2011, Ch. 1 (33% RPS)). Specifically, that provision states that "[f]or any retail seller procuring at least 14 percent of retail sales from eligible energy resources in 2010, the deficits associated with any previous renewables portfolio standard shall not be added to any procurement requirement pursuant to this article."¹

While CEERT did not file opening comments in response to the July 15 ALJ's Ruling, it does agree with the comments of many parties that the intent of this code section is to forgive deficits above 14% of retail sales that were otherwise required to meet the prior RPS mandate of

¹ July 15 ALJ's Ruling, at p. 7.

20% RPS by 2010 to begin a fresh start toward meeting and complying with the targets and requirements adopted for the 33% by 2020 RPS enacted in SB 1X 2. As stated by the Union of Concerned Scientists (UCS), however, “SB 2 (1 x) specifically forgave deficits associated with past compliance periods within the 20% RPS *only* if the retail seller generated 14% of its retail sales from eligible renewable energy resources in 2010.”²

Thus, to forgive 6% of RPS procurement otherwise required in past compliance periods is not to be taken lightly and must ensure that renewable energy *deliveries* by the end of 2010 at least met this 14% compliance requirement. To that end, CEERT supports the interpretation by UCS of the new statutory language in Section 399.15(a) to mean that the requirement that “at least 14 percent of retail sales in 2010” cannot be met by renewables procurement that has been “earmarked” for delivery, but not actually delivered by 2010.³

As stated by UCS:

“The Commission should interpret ‘at least 14 percent of retail sales in 2010’ as only the actual deliveries from eligible renewable energy resources that a retail seller retired in its WREGIS [Western Renewable Energy Generation Information System] account to meet its RPS compliance requirement in 2010. Actual deliveries should not include future deliveries that have not yet occurred, but had been earmarked under existing flexible compliance rules.”⁴

CEERT also agrees with UCS that, since “banked resources represent eligible renewable energy resources that have already generated electricity (and met the delivery rules under the previous RPS program) ... it is also reasonable to account for these deliveries when calculating the 14% threshold.”⁵

The Alliance for Retail Energy Markets (AReM) offers a similar view that the 14% threshold should be calculated based on “actual 2010 purchases plus application of banked

² UCS Opening Comments on New Procurement Targets and Compliance, at pp. 4-5; emphasis original.

³ *Id.*, at p. 4.

⁴ *Id.*, at p. 4.

⁵ *Id.*

volumes of delivered energy from prior years.”⁶ While AReM also asks that past earmarking be eliminated, it does offer a more nuanced view that would require the “netting” of remaining earmarks as of December 31, 2010 “against the retail seller’s cumulative banks as of December 31, 2010.”⁷ According to AReM, if the “net number is a net deficiency,” the “deficiency is forgiven (set at zero)”; if the “net number shows a remaining bank,” that bank may be applied toward future compliance periods in the 33% program.⁸ Such an approach also appears reasonable to CEERT.

Respectfully submitted,

September 12, 2011

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⁶ AReM Opening Comments on New Procurement Targets and Compliance, at p. 9.

⁷ Id.

⁸ Id.

VERIFICATION

(Rule 1.11)

I am the attorney for the Center for Energy Efficiency and Renewable Technologies (CEERT). Because CEERT is absent from the City and County of San Francisco, California, where I have my office, I make this verification for said party for that reason. The statements in the foregoing Reply Comments of the Center for Energy Efficiency and Renewable Technologies on New RPS Procurement Targets and Compliance, have been prepared and read by me and 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 and executed on September 12, 2011, at San Francisco, California.

Respectfully submitted,

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