

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

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

R.11-05-005

NOTICE OF EX PARTE COMMUNICATION

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Date: September 12, 2011

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In accordance with Rule 8.4 of the Commission's Rules of Practice and Procedure, Shell Energy North America (US), L.P. ("Shell Energy") files this notice of an oral ex parte communication that occurred on Wednesday, September 7, 2011. No written materials were provided. The oral communication occurred in the office of President Michael R. Peevey at the Commission's San Francisco headquarters.

I.

The ex parte communication occurred through a meeting among President Peevey, Marcie Milner, Vice President, Regulatory Affairs, Shell Energy, Scott Murtishaw, advisor to President Peevey, and John Leslie, the undersigned attorney for Shell Energy. The communication was oral. The communication was initiated by Ms. Milner. The meeting lasted 30 minutes, from approximately 2:00 p.m. to 2:30 p.m. At the beginning of the meeting, the undersigned provided President Peevey with a copy of the "three-day notice" that was filed and served on September 2, 2011.

II.

The purpose of the meeting was to discuss biogas and other issues related to implementation of SBX1 2. Ms. Milner addressed the following matters:

First, Ms. Milner stated that the Commission should establish, before the end of this year, a date certain for implementation of SBX1 2. A fixed implementation date will avoid the complexity and confusion associated with cherry-picking a combination of old and new RPS procurement rules.

Once an implementation date is set, all RPS procurement prior to the implementation date should be subject to the pre-existing RPS procurement and compliance rules, including but not limited to the current TREC rules, unlimited forward banking rules, and flexible compliance rules, including the “earmarking” rules. By the same measure, any contracts for RPS procurement entered into on or after the implementation date should be subject to the rules adopted under SBX1 2, including the product content categories (“buckets”). Parties cannot value risk without regulatory certainty. A firm implementation date with clearly articulated rules will provide certainty and facilitate the RPS compliance and verification process.

Second, Ms. Milner stated that under SBX1 2, out-of-State biogas delivered to an RPS-eligible “in-State” generation facility (or to any other RPS-eligible generation facility that qualifies under P.U. Code Section 399.16(b)(1)(A)) should continue to be considered an in-State (“Bucket One”) product. Biogas is an eligible renewable resource under existing law and under SBX1 2. Energy produced in-State from eligible renewable resources qualifies as a “Bucket One” product. The CEC has developed and implemented eligibility, delivery and verification requirements for biogas delivered by pipeline. No further action with respect to the eligibility of biogas is directed through SBX1 2. The Commission may not lawfully de-value existing contracts by reclassifying them as TRECs or “Bucket Three” products.

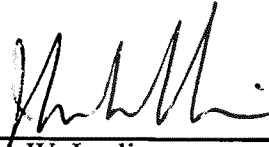
Finally, the undersigned noted that in establishing the product content categories (buckets) under SBX1 2, the Commission should confirm that under Bucket One, as long as an LSE can demonstrate that energy is scheduled from an out-of-State RPS-eligible resource -- “as produced” -- to a California Balancing Authority (CBA), the LSE does not need to maintain “firm transmission” from the RPS-eligible resource to the CBA.

III.

To obtain a copy of this notice, please contact:

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Respectfully submitted,



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