

Memorandum

Date: October 27, 2011

To: Honorable Mark J. Ferron, Commissioner
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Honorable Anne E. Simon
Administrative Law Judge
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

From: Department of Water Resources

Subject: **RULEMAKING 11-05-005 – THE CALIFORNIA DEPARTMENT OF WATER RESOURCES' COMMENTS ON THE PROPOSED DECISION IMPLEMENTING PORTFOLIO CONTENT CATEGORIES FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM AND RELATED ISSUES DATED OCTOBER 7, 2011**

The California Department of Water Resources ("CDWR") hereby submits its response in the above-captioned matter to clarify the record with regard to the energy contract negotiations involving Mountain View, Cabazon and Whitewater Hill Wind contracts. CDWR notes that these contracts were renegotiated in 2002 with involvement from the CPUC.

CDWR is obliged to correct the record with regard to the Mountain View contract, discussed in Section 3.6.1. As noted in Footnote 71 to the Proposed Decision, this issue has been pending before the Commission for several years. Following a lengthy renegotiation/novation process involving CDWR, Mountain View and Southern California Edison Company ("SCE"), on July 29, 2009, CDWR submitted its request to the Executive Director for concurrence pursuant to AB 3058 (now Water Code section 80110(c)(1)) that the modifications to the contract, involving the renewable credits, were administrative in nature. Had the Executive Director concurred, the contract would have been novated to SCE at that point. However, on September 18, 2009, the Executive Director issued a letter decision stating he did not concur that the modification was administrative, effectively terminating the novation process and prompting the formal request of SCE referenced in Footnote 71. The Mountain View contract with CDWR expired September 30, 2011, therefore novation is no longer applicable.

CDWR would also like to point out that the second full paragraph on page 47 does not accurately characterize the negotiations and renegotiations of the CDWR energy contracts. The sentence states: "Neither the utilities nor their ratepayers had any part in DWR's decision to buy only the electricity and not the RECs; neither the utilities nor their ratepayers should be disadvantaged by the assignment to them of these CDWR

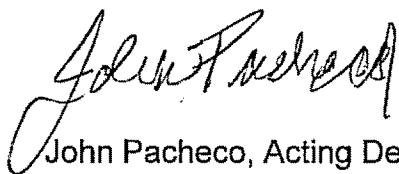
contracts." CDWR requests that this sentence be revised or removed from a final decision for the following reasons:

CDWR would like to remind the Commission that the majority of its contracts were renegotiated in 2001 and 2002. The Commission was one of a large group of state stakeholders who were actively involved in those renegotiations. The Mountain View, Cabazon and Whitewater contracts were renegotiated effective October 1, 2002, April 24, 2002 and January 30, 2003, respectively. Modifications to the REC provisions were neither proposed nor made a part of those renegotiated contracts. CDWR's obligation with regard to the energy contracts is mandated by the legislature in Water Code section 80100(a): "...to achieve an overall portfolio of contracts for energy resulting in reliable service at the lowest possible price per kilowatt hour." Given the market conditions that prompted the emergency legislation then known as AB1x that created CDWR's power purchase program, the added expense of securing RECs was not justified in 2001. In 2001-2002, their future value was not known. Finally, the requirement for utilities to include renewable energy in their portfolio was not instituted until 2008 by way of Executive Order S-14-08, so this issue was not a point of negotiation in 2001-2002.

CDWR is encouraged by this Decision with regard to the Cabazon and Whitewater contracts which do not expire until December 2013. CDWR welcomes the opportunity to participate in an effort by SDG&E to work toward an early termination and/or novation of these contracts.

If you have any questions or need additional information, please contact me at (916) 574-2733.

Sincerely,



John Pacheco, Acting Deputy Director
California Energy Resources Scheduling

cc: (See attached list)

Honorable Mark J. Ferron
Honorable Anne E. Simon
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Service List Rulemaking 11-05-005 (via electronic mail)