

**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)

**COMMENTS OF THE CALIFORNIA WASTEWATER CLIMATE CHANGE
GROUP ON PROPOSED DECISION IMPLEMENTING PORTFOLIO CONTENT
CATEGORIES FOR THE RENEWABLES PORTFOLIO STANDARD
PROGRAM**

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Introduction

Pursuant to the Commission's Rules of Practice and Procedure, the California Wastewater Climate Change Group (CWCCG) submits these comments on ALJ Simon's *Proposed Decision Implementing Portfolio Content Categories for the Renewables Portfolio Standard Program* (PD), issued on October 7, 2011. The PD focuses on the new § 399.16 of the Public Utilities Code that establishes three new portfolio content categories for RPS procurement and sets limitations on the use of procurement in each category for the eligible renewable energy resource electricity products.

CWCCG previously provided opening and reply comments on the *Administrative Law Judge's Ruling Requesting Comments On Implementation Of New Portfolio Content Categories For The Renewables Portfolio Standard Program* (Ruling) recommending that unbundled renewable energy credit (REC) transactions be included in the first portfolio content category as defined in § 399.16(b)(1) (i.e.; Category One) for RECs associated with renewable energy

CWCCG

produced by facilities meeting the criteria of Category One described in Section 399.16(b)(1) and whose energy is consumed onsite. More than two-thirds of the parties that provided comments on the Ruling supported inclusion of qualifying unbundled REC transactions in Category One¹. CWCCG herein argues in support of this position.

Benefits of Onsite Biogas-Powered Generation

CWCCG represents agencies that treat over 90 percent of the municipal wastewater in California. Significant potential exists for the expansion of renewable generation at wastewater treatment plants across California, with an estimated potential of 450 MW² of additional capacity that can be achieved through digestion of conventional wastewater solids and co-digestion of other high-strength organic wastes, such as food and dairy waste. The creation of a robust REC market for in-state renewable energy generation that is consumed onsite will further enable California wastewater treatment plants to tap into this unmet biogas-powered generation potential without straining the existing transmission system, and help California meet its RPS goals.

Biogas-powered renewable generation that is interconnected with a California balancing authority at the transmission or distribution level and is consumed onsite at California wastewater treatment plants provides several benefits described in Section 399.11 (b):

- Displacement of fossil fuel consumption within the state by utilization of biogas.

¹ See comments of California Municipal Utilities Association (CMUA), Calpine Corporation (Calpine), Independent Energy Producers Association (IEP), Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company, California Wastewater Climate Change Group (CWCCG), Green Power Institute (GPI), Shell Energy North America (Shell Energy), Noble Americas Energy Solutions (Noble Solutions), Evolution Markets (Evolution), Union of Concerned Scientists, Center for Energy Efficiency and Renewable Technologies (CEERT).

² Kulkarni, Pramod. 2009. *Combined Heat and Power Potential at California's Wastewater Treatment Plants*. California Energy Commission. CEC-200-2009-014-SF.

- Addition of electrical generating facilities in the WECC service area, within California.
- Meeting the state’s climate change goals by reducing fossil fuel-related greenhouse gas emissions.
- Promoting stable retail rates for electric service. Some wastewater facilities export surplus electrical generation to utilities at contracted prices.
- Meeting the state’s need for a diversified and balanced energy generation portfolio. The firming power of biogas generation complements intermittent renewable resources like wind and solar.
- Assistance with meeting the state’s resource adequacy requirements.
- Contribution to the safe and reliable operation of the electrical grid by providing a reliable electric supply (biogas production is consistent) and congestion relief. Urban wastewater facilities are typically located near load centers where congestion may be an issue.

Comments

CWCCG limits its comments specifically to Section 3.4.3 of the PD regarding the characterization of unbundled RECs. These comments seek to clarify the confusion that now exists in the PD related to the inclusion of unbundled RECs in the first portfolio content category (Category One) versus the third portfolio content category (Category Three).

Most importantly, the PD claims that “there is no reason, textual or otherwise, to believe that the Legislature intended some [unbundled RECs] to belong in § 399.16(b)(1),”³ while in

³ PD, Page 32.

essence there are numerous reasons, textual and otherwise, that prove the conclusion that unbundled RECs from resources that meet the criteria of Category One remain Category One products even if the energy is consumed on the site of the resource. The PD recognizes that SB 2 (1X) eliminates the delivery requirement for RPS eligibility by amending Pub. Res. Code §25471 to remove the references to delivery⁴. Therefore, SB 2 (1X) does not require that the RECs be “acquired with the RPS-eligible energy from a generator with a first point of interconnection with a California balancing authority with which the RECs are associated”⁵ for the transaction to meet the criteria of Category One. For one thing, the Legislature would not refer to “unbundled renewable energy credits, that do not qualify under the criteria of paragraph (1) or (2)” (*i.e.*, Category One or Two) in § 399.16(b)(3) if unbundled RECs could not belong in these Categories. A clear reading of § 399.16(b)(1) shows that unbundled RECs can in fact qualify for Category One. Secondly, nothing in the criteria of § 399.16(b)(1) suggests that a Category One product must be a bundle of energy and RECs. If the Legislature had intended to limit Category One to bundled transactions, it could have done so. Therefore, any eligible renewable energy resource electricity product that meets the interconnection criteria of § 399.16(b)(1) must qualify for inclusion in Category One, regardless of whether it is a bundled or an unbundled product.

The PD even uses Assembly Bill 920 as an example in support of its position by stating that “the statute [Assembly Bill 920] specifically recognized that the sale of RECs associated with the on-site use of electricity from an RPS-certified DG facility is different from the sale by

⁴ PD, page 8.

⁵ PD, pages 36-37.

the system owner of both energy and RECs to a retail seller.”⁶ , although Assembly Bill 920 does not intend to set any basis for eligibility in RPS program or for qualification in either of the three Categories, yet merely aims to set structure around Net Energy Metering (NEM), and is, therefore, not a valid precedent. The PD further asserts that “...Conferring an additional value on the unbundled RECs by considering them to meet the "first point of interconnection to distribution system" criterion is not warranted by any statutory language or Commission decision.”⁷ This very approach prevents the full value of the renewable energy generation from being recognized at DG facilities located at wastewater treatment plants. The PD recognizes that excess energy could be sold back to the grid through net metering and “...Thus, there is no question that such sales meet the criterion in § 399.16(b)(1) for generation with a first point of interconnection to the distribution system.”⁸ However, biogas-fueled generation facilities at California wastewater treatment plants that meet the interconnection criteria of § 399.16(b)(1) could be using all or most of this renewable energy onsite, and they may not deliver energy to a California retail seller. Because these facilities confer the benefits described above and meet the interconnection criteria of § 399.16(b)(1), the RECs created under this scenario should be included in Category One, so that these generators are not penalized merely for serving on-site demand, rather than exporting generation and increasing the load on the existing transmission system when it can be prevented. Contrary to the PD’s position, which infers that undue benefits would be realized due to perceived double-counting of unbundled RECs at DG facilities if they are allowed in Category One, the calculations show that the REC benefits of a “Category One eligible renewable energy resource electricity product” would actually go undercounted by the

⁶ PD. Page 34

⁷ PD, page 35.

⁸ PD, page 34.

proposed methodology, not double-counted. The expansion of DG facilities at wastewater treatment plants across California depends on the cost of implementing such projects, and the ability to count on full RPS benefits will help balance the cost requirements for these facilities.

The PD also states that, “...it is clear that the portfolio content categories have fixed boundaries”⁹ and asserts that allowing different unbundled RECs to belong in different portfolio content categories would violate the “fixed boundaries” of the categories. To prevent this, the PD lumps all unbundled RECs in Category Three, stating that “Since the categories are separate, that [§ 399.16(b)(3)] is where unbundled RECs belong.”¹⁰ However, allowing unbundled RECs that are associated with a resource that meets the interconnection criteria of § 399.16(b)(1) to belong in Category One would not violate the “fixed boundaries,” since a clear distinction of which unbundled RECs belong in Category One exists in the eligibility requirements. By definition of the eligibility for each content category, the RECs that belong in Category Three are from facilities that do not have a first point of interconnection with a California balancing authority or with distribution facilities used to serve end users within a California balancing authority area, and that do not offer the benefits of the Category One facilities listed above. That difference is precisely why transactions for RECs from facilities that qualify for Category One status are grouped with other transactions that provide comparable benefits to California, and transactions for RECs from facilities that do not qualify as Category One are classified as Category Three transactions.

Including all unbundled REC transactions in Category Three would not create the robust REC market needed for California wastewater treatment plants to tap into the unmet potential

⁹ PD, page 31.

¹⁰ PD, page 32.

biogas-powered generation capacity that exists. These plants are owned and operated by non-profit public agencies that need some measure of financial certainty to invest the public funds that are collected for their services. CWCCG strongly believes that placing all unbundled RECs in Category Three will discourage development of renewable DG, contrary to state policy and goals. The lack of benefit to DG facilities would create very little incentive for the development of in-state DG. The higher value of Category One transactions as well as the greater certainty of their sustained future value is what California wastewater agencies need to make investments in renewable generation. These investments include development of waste handling facilities for co-digestion of high-strength organic wastes, such as food and dairy waste that has the potential to produce 450 MW of additional renewable generation capacity at California wastewater treatment plants. Also, placing base load renewable distributed generation in Category Three will lower its value, and will prevent facilities from being built or encourage closure of existing facilities.

The PD speculates that repeated sale of unbundled RECs will result in higher prices that spiral upward. There is no evidence to support this view. Contrary to this speculation, including unbundled RECs from facilities that meet the interconnection criteria of § 399.16(b)(1) will make for a more flexible and efficient REC market. The inclusion of qualified unbundled RECs in Category One will result in a greater supply of Category One products and lower overall renewable procurement costs. This will be a better deal for ratepayers. CWCCG sees no evidence that the Legislature considered limits on the trading of unbundled RECs, whether they were classified in Category One or Three.

Based on the foregoing, any eligible renewable energy resource electricity product that meets the interconnection criteria of § 399.16(b)(1) should qualify for inclusion in Category One,

regardless of whether it is a bundled or unbundled product. As described earlier, many CWCCG members own and operate onsite generation facilities using biogas as fuel. For most of these facilities, the energy is used onsite to offset the electricity demand of the wastewater treatment plant. As required to meet the criteria of § 399.16(b)(1) these facilities “have a first point of interconnection with a California balancing authority” or “have a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area.” Therefore, these renewable energy generation facilities meet the criteria for inclusion in Category One described in § 399.16(b)(1). The electricity products of these facilities include energy and associated renewable attributes (i.e.; RECs), which may be sold either separately or together in a bundle. In this case, the energy product is consumed onsite, and the RECs are sold separately while providing the required benefits as well as additional environmental benefits to the State by eliminating waste and pollution. Since the RECs are produced by a resource that has Category One status, the associated RECs should also retain the Category One status of the facility.

Conclusion

Biogas-powered generation facilities at California wastewater treatment plants that use the power onsite comply with § 399.16(b)(1)(A) and confer the benefits described in § 399.11(b). Biogas powered DG supports electrical grid stability and requires no grid system storage or dispatchable power capacity elsewhere on the transmission system for support with changes in weather. In addition, biogas resources are typically near load centers. The power that is produced does not require new transmission lines, but rather relieves grid congestion in urban areas where it is most needed.

To maximize the development of this reliable and renewable source of energy, CWCCG strongly supports development of a robust market for the sale of unbundled RECs associated with in-state renewable energy generation that is consumed onsite. Therefore, CWCCG respectfully requests that the Commission categorize unbundled RECs associated with these facilities as Category One transactions. This is consistent with the intent of Senate Bill 2 (1x) and will provide direct benefits to the state. Inclusion of unbundled REC transactions originating from qualifying generation facilities in Category One will stimulate the development of additional biogas-powered generation at California wastewater treatment plants that will help California meet its RPS goals. It will also increase the supply of Category One renewable energy generation and reduce overall costs to ratepayers.

Respectfully submitted this 27th day of October, 2011 in Santa Ana, California.

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By _____



For the California Wastewater Climate
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VERIFICATION

I am a consultant representing the California Wastewater Climate Change Group and am authorized to make this verification on its behalf. I have read the foregoing "Comments of the California Wastewater Climate Change Group on Proposed Decision Implementing Portfolio Content Categories for the Renewables Portfolio Standard Program" and am informed and believe that the matters stated therein are true. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of October 2011, in Santa Ana, California.



By: Zeynep Erdal

CERTIFICATE OF SERVICE

I, Zeynep Erdal, certify that I have, on this date, caused the foregoing "Comments of the California Wastewater Climate Change Group on Proposed Decision Implementing Portfolio Content Categories for the Renewables Portfolio Standard Program" to be served by electronic mail on the parties listed on the Service List for the proceeding in California Public Utilities Commission Docket No. R.11-05-005.

I declare under penalty of perjury, pursuant to the laws of the State of California, that the foregoing is true and correct.

Executed on October 27, 2011 in Santa Ana, California.



Zeynep Erdal