

**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 PILOT POWER GROUP, INC. ON PROPOSED DECISION  
IMPLEMENTING PORTFOLIO CONTENT CATEGORIES FOR THE  
RENEWABLES PORTFOLIO STANDARD PROGRAM**

Thomas R. Darton, Esq.  
Pilot Power Group, Inc.  
8910 University Center Lane, Suite 520  
San Diego, CA 92122  
Telephone: 858-678-0118  
Facsimile: 858-678-0353  
Email: [tdarton@pilotpowergroup.com](mailto:tdarton@pilotpowergroup.com)

Attorney for Pilot Power Group, Inc.

November 1, 2011

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In accordance with California Public Utilities Commission Rule 14.3, Pilot Power Group, Inc. submits these reply comments on the *Proposed Decision Implementing Portfolio Content Categories For The Renewables Portfolio Standard Program* (“PD”).

**I. The Parties Agree That Subsequent Sales Should Retain The Categorization Of The Original Sale.**

The parties addressing this issue all agree that subsequent sales of renewable energy and/or RECs should retain the original attributes of the first sale. To provide regulatory certainty, the PD should be modified to make clear that subsequent sales retain the same categorization as the original sale.

**II. Unbundled RECs Can Be Classified As Category 1, Category 2, Or Category 3 Products.**

This Commission has displayed a bias against the use of unbundled RECs in several previous decisions. Thinking that the Commission would never authorize the sale of unbundled RECs as either Category 1 or Category 2 products, in its opening comments Pilot Power set its sights lower. Accordingly, Pilot Power simply sought for clarification that subsequent sales, even of RECs that have become unbundled as a result of the electricity associated with the RECs being consumed, retains the same categorization as the original sale. However, agreeing with the

PD's conclusion that unbundled RECs are automatically classified as category 3 products was intellectually dishonest. One cannot argue for following the plain language of the statute in Sections 399.16(b)(1) and (b)(2), then ignore the plain language of the statute in Section 399.16(b)(3). As many parties have demonstrated, the plain language of Section 399.16(b)(3) is that electricity products from a renewable generator, including unbundled RECs, that do not qualify as either category 1 or category 2, fall within the catch-all of category 3. Thus, unbundled RECs (which are a renewable electricity product) can, under the right circumstances, qualify as category 1 or category 2 products, even if first sold unbundled.

As discussed in Pilot Power's opening comments, the language of Section 399.16(b)(1) and (b)(2) appear to very clearly require that electricity actually flow into California. The Commission must determine, therefore, what showing is required to demonstrate that the necessary electricity has flowed into California to enable a sale of unbundled RECs from a generator to qualify as a category 1 or category 2 product.

### **III. Conclusion**

The PD must be revised to reflect the actual language of the statute. Products that meet the statutory requirements of category 1 or 2, can include unbundled RECs. And subsequent sales of renewable electricity products retain their original classification from the first sale.

Respectfully submitted,



Thomas R. Darton, Esq.  
Pilot Power Group, Inc.  
8910 University Center Lane, Suite 520  
San Diego, CA 92122  
Telephone: 858-678-0118  
Facsimile: 858-678-0353

Attorney for Pilot Power Group, Inc.

## VERIFICATION

I, Thomas R. Darton, am an officer of Pilot Power Group, Inc. and am authorized to make this verification on its behalf. The matters stated in the foregoing **REPLY COMMENTS OF PILOT POWER GROUP, INC. ON THE PROPOSED DECISION IMPLEMENTING PORTFOLIO CONTENT CATEGORIES FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM** are true of my own personal knowledge, except as to matters which are stated therein on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Verification is executed this 1st day of November, 2011, at San Diego, California.

/s/ Thomas R. Darton  
Thomas R. Darton, Vice President