

**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
(Filed May 5, 2011)

**REPLY COMMENTS OF SIERRA CLUB CALIFORNIA ON THE PROPOSED
DECISION ON IMPLEMENTATION OF NEW PORTFOLIO CONTENT
CATEGORIES FOR THE RENEWABLE PORTFOLIO STANDARD PROGRAM**

November 1, 2011 Jim Metropulos, Senior Advocate

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I. Introduction

Sierra Club California respectfully submits the following Reply Comments on the Proposed Decision on Implementation of New Portfolio Content Categories (Proposed Decision) in accordance with the Rule 14 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure.

Sierra Club California is comprised of more than 150,000 members and ratepayers throughout California. Sierra Club California supports successful implementation of the renewable portfolio standard such that it provides maximized environmental benefits in accordance with statute, including greenhouse gas emission reductions. Sierra Club generally agrees with the Union of Concerned Scientists that the Proposed Decision should be clarified.

II. The Commission Should Clarify its RPS Verification Authority With Regard to the Two "Tenets."

Sierra Club California shares the concerns expressed by the Union of Concerned Scientists and Center for Resource Solutions that the two "tenets" should be clarified or modified to ensure that the Commission does not cloud its own verification authority, and to prevent the risk of double-counting Renewable Energy Credits (RECs). The two "tenets," "What you buy is what you have" and "what you have is what you retire for RPS Compliance"¹ could lead to absurd results without clarification. The Commission should adopt as a conclusion of law that the tenets themselves create

¹ Proposed Decision at 14.

no guarantee of RPS eligibility or restrict an entity from buying or selling RECs in the renewable energy compliance or voluntary markets.

- III. Verification of § 399.16(b)(1) RPS transactions with hourly metered data from the RPS-eligible generation facility.

Sierra Club California agrees with the Union of Concerned Scientists regarding verification of renewable energy claimed pursuant to Public Utilities Code § 399.16(b)(1). We support the Commission continuing to work with WREGIS to identify ways to automate data collection so that hourly metered data from the RPS-eligible generation facility can be used to verify RPS compliance.

- IV. Clarification of requirements for RPS transactions to meet the requirements of of § 399.16(b)(2)

Sierra Club California agrees with the Union of Concerned Scientists that the Commission should not permit RPS transactions that sell energy back to the original generator to meet the requirements of Pub. Util. § 399.16(b)(2), known as “firmed and shaped” transactions. This is an essential element to distinguishing the purchase of RECs and the associated electricity from an unbundled REC, which is designated as a separate “bucket” in the statute. In accordance with this principle recognized in the Proposed Decision, the requirement for “the buyer’s simultaneous purchase of energy and associated REC’s from the RPS-eligible generation facility

without selling the energy back to the *generation*” should be clarified to state “generator,” and that the “buyer” is a retail seller with an RPS obligation.²

The Proposed Decision defers the Energy Division the determination regarding the value to ratepayers of firmed and shaped electricity products, rejecting the proposals supported by UCS, TURN, and Sierra Club California for that all firmed and shaped transactions contain a fixed price through long-term contracts for the substitute electricity delivered into California, because utilities effectively hedge against price volatility for their entire portfolios. Sierra Club California requests that the Commission consider the value to ratepayers of requiring long-term contracts of 5 years or more, and how these mechanisms can prevent both (1) the renewable electricity procurement representing a mere spot market rather than new renewable energy generation, and (2) procurement of emissions-intensive substitute electricity that does not comply with the Emissions Performance Standard required by D.07-01-039.

- V. The Commission should not classify pipeline biomethane until the CEC can address this issue.

Sierra Club California agrees with TURN and UCS that the classification of biomethane should be deferred until the CEC can address this issue.

- VI. The Commission should carefully consider “behind the meter” electricity for § 399.16(b)(1) compliance.

² Proposed Decision at 40.

Sierra Club California believes that distributed generation should be considered for § 399.16(b)(1) compliance. The Commission should provide incentives for retail sellers to incorporate distributed generation programs into the RPS, and it is anticipated that products that comply with 399.16(b)(1) offer the greatest flexibility for retail seller compliance under the RPS program. The Commission should find an appropriate way to include products where the procured electricity is scheduled into a California balancing authority but may take the form of a REC. For example, a workable solution is for IOUs to be permitted to purchase RECs from on-site generation to count toward § 399.16(b)(1), or if they re-sold they would count toward § 399.16(b)(3). However, the potential double-counting effect of net metered energy reducing load, and thereby reducing the amount of renewables needed to reach the 33 percent requirement, should be taken into account, perhaps by requiring that energy consumed on-site be included in the total sales of the retail seller for the purposes of RPS Compliance.

Sierra Club California is very concerned about this proposal's implications for greenhouse gas emission reductions, and urges clarification that the RECs produced behind the meter would not count if they have received benefits from the CPUC-approved programs, especially the California Solar Initiative, the programs listed by the Energy Commission that are not eligible for RPS compliance.³ The Climate Change Scoping Plan relies on the CSI for 2.1 million metric tons of emission reductions pursuant to the Global Warming Solutions Act (AB 32). Additionally, the CSI was enacted by an independent law, SB 1 passed by the legislature in 2006, to generate 3,000 MW of capacity. It is vitally important to maintain the independent integrity of the goals of both of these programs, which were established separately by the

³ *Committee Draft, Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition.* California Energy Commission, Efficiency and Renewable Energy Division. Publication Number: CEC-300-2010-007-CMF. <http://www.energy.ca.gov/2010publications/CEC-300-2010-007/CEC-300-2010-007-CMF.PDF>

legislature, and have separate responsibility under the state's Climate Plan. CSI and the RPS should be kept separate by the CPUC so as not to undermine the state's renewable energy and climate protection policies.

Failing to consider this issue could result in reduced renewable energy procurement and associated increased greenhouse gas emissions. While Sierra Club California is supportive of including distributed generation in § 399.16(b)(1), the Commission should re-consider this issue through further comment rather than at this stage of the proceeding if the Commission cannot verify that this action would not result in these potential adverse impacts to renewable resource development and greenhouse gas emissions.

	/s/ Jim Metropulos	/s/ Andy Katz
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VERIFICATION

I am the Senior Advocate with Sierra Club California and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in this pleading are true.

I declare under penalty of perjury that the matters stated in this pleading are true and correct.

Executed on the **1st day of November, 2011**, at Sacramento, California.

/s/ Jim Metropulos

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