

**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 CALPINE POWERAMERICA-CA, LLC
ON PROPOSED DECISION SETTING PROCUREMENT
QUANTITY REQUIREMENTS FOR RETAIL SELLERS FOR
THE RENEWABLES PORTFOLIO STANDARD PROGRAM**

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November 17, 2011

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Pursuant to Rule 14.3 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, Calpine PowerAmerica-CA, LLC (“CPA”)¹ submits these comments on the proposed decision (“PD”) setting procurement quantity requirements for retail sellers for the Renewables Portfolio Standard (“RPS”) program.

CPA supports the purpose and goals of Senate Bill (“SB”) 2(1x) to increase RPS procurement over the next decade and appreciates the challenges faced by the Commission to implement the new law. By the same token, however, it is important for the Commission to appreciate and consider the challenges faced by retail sellers to comply with a law that imposes compliance obligations effective January 1, 2011 but was not signed by the Governor until April 2011 and is still not yet effective.²

The PD provides that critical compliance rules, such as banking, counting provisions and long-term contracting requirements, will not be addressed until some unknown point in the

¹ CPA is an Energy Service Provider subject to the Commission’s RPS compliance obligations and is a subsidiary of Calpine Corporation (“Calpine”). Calpine is a party in this proceeding and CPA is a named respondent.

² See PD at 2, note 1.

future.³ CPA is committed to continuing to work with the Commission to establish rules that will ensure the fairest, most efficient and cost-effective implementation of SB 2(1x). In doing so, however, it is important that the Commission account for the significant steps many retail sellers undertook to comply with the now superseded “20% by 2010” RPS procurement obligation and preserve the value of actions already taken by retail sellers in reliance on current RPS law and rules.

Accordingly, CPA believes the Commission must move quickly upon adoption of the PD to establish transitional rules that carry forward the existing RPS rules regarding categorization, counting, and banking through calendar year 2011 as a means of preserving the reasonable expectations of retail sellers who took action in reliance on the existing rules. The wholesale retroactive application of SB 2 (1x) to January 1, 2011 would be unfair to retail sellers and could potentially penalize them for decisions that were, in all respects, consistent with the law and RPS rules in effect at the time the decisions were made.

Respectfully submitted,

/s/

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Dated: November 17, 2011

³ PD at 19.

Appendix A
Proposed Revisions to Proposed Decision

No Proposed Revisions.

VERIFICATION

I am the attorney for the Calpine PowerAmerica-CA, LLC, and I have been authorized to make this verification on the behalf of Calpine PowerAmerica-CA, LLC. Said party is located outside of the County of San Francisco, where I have my office, and I make this verification for said party for that reason.

I have read the foregoing document and based on information and belief, believe the matters in the application to be true.

I declare under penalty of perjury that the foregoing is true and correct and executed on November 17, 2011, at San Francisco, California.

_____/s/
Jeffrey P. Gray