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 SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ON THE PROPOSED DECISION IMPLEMENTING PORTFOLIO CONTENT CATEGORIES FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM

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Dated: October 27, 2011

SUBJECT INDEX

TABLE OF AUTHORITIES

Cases

Statutes

Rules

Other Authorities

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I. INTRODUCTION AND SUMMARY.

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the Southern California Public Power Authority ("SCPPA")[1] respectfully comments on the October 7, 2011 Proposed Decision of Administrative Law Judge Anne E. Simon entitled *Decision Implementing Portfolio Content Categories for the Renewable Portfolio Standard Program* ("Proposed Decision") in the captioned proceeding.

SCPPA supports the comments by the California Municipal Utilities Association ("CMUA") on the Proposed Decision. These comments are submitted to support and augment the comments of the CMUA on the following points:

- The conclusion in the Proposed Decision that electricity generated at Renewable Portfolio Standard ("RPS")-eligible facilities from RPS-eligible pipeline biomethane

[1] SCPPA is a joint powers authority. The members are Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles Department of Water and Power, Imperial Irrigation District, Pasadena, Riverside, and Vernon. This comment is sponsored by Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, the Imperial Irrigation District, Pasadena, Riverside, and Vernon.

should be included in portfolio content category ("Category") One is supported by the text of Senate Bill ("SB") 2 (1X) (Simitian), and should be included in the Conclusions of Law in the Proposed Decision.

- Unbundled renewable energy credits ("RECs") should be included in Category One if the RECs are from RPS-eligible facilities that are located in California or otherwise meet the criteria in California Public Utilities Code ("PUC") section 399.16(b)(1) as promulgated in SB 2 (1X).
- The requirements for generation to be included in Category Two should be revised to include firming and shaping transactions in which the entity that seeks to use the firmed and shaped energy to meet its RPS goals is not the same as the entity that originally purchased the renewable energy and RECs.
- The requirements relating to electricity scheduled into California without substituting electricity from another source should be clarified.

II. THE CONCLUSIONS OF LAW SHOULD INCLUDE THE CONCLUSION THAT THE OUTPUT FROM RPS-ELIGIBLE FACILITIES THAT USE RPS-ELIGIBLE BIOMETHANE AND MEET THE CRITERIA FOR CATEGORY ONE CAN BE INCLUDED IN CATEGORY ONE.

Section 3.4.4 of the Proposed Decision concludes that electricity generated at RPS-eligible facilities that use RPS-eligible pipeline biomethane and meet the criteria for Category One can be included in Category One under PUC section 399.16(b)(1)(A). The Proposed Decision states:

> If a generation facility that the CEC certifies as RPS-eligible is using a fuel that the CEC finds is RPS-eligible, and the facility is directly interconnected with the transmission or distribution system in a California balancing authority area, or has its electricity output scheduled into a California balancing authority without substitution of electricity from another source, or is dynamically

> transferred, the facility's output could be classified as meeting the criteria for section 399.16(b)(1).

Proposed Decision at 36. The Proposed Decision correctly interprets PUC section 399.16(b)(1)(A). Indeed, no other interpretation could be justified in light of the language of the relevant provisions of SB 2 (1X).

The consequence of the Proposed Decision is that the output from California generation facilities that consume pipeline biomethane can be included in Category One to the extent of their use of pipeline biomethane.

Pipeline biomethane is RPS-eligible. SB 2 (1X) renumbers the current California Public Resources Code ("PRC") section 25741(b)(1) as PRC section 25741(a)(1) without substantive modification.[2] PRC section 25741(a)(1) in SB 2 (1X) lists eligible fuels for "renewable electrical generation facilities." The list of eligible fuels includes digester gas and landfill gas.

Likewise, the California facilities that burn the eligible fuels can be certified by the California Energy Commission ("CEC") as RPS-eligible. Under the rules of the CEC regarding delivery of such fuels to California, California generating facilities that procure a mix of biomethane and natural gas have been treated by the CEC as renewable energy facilities for several years, to the extent of their generation from biomethane.[3]

Lastly, California facilities meet the criteria of PUC section 399.16(b)(1)(A) insofar as they, *inter alia,* "have a first point of interconnection with a California balancing authority."

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[2] SB 2 (1X) section 6.

[3] See for example the CEC's Renewables Portfolio Standard Eligibility Guidebook Second Edition, pub. March 2007, pp. 22-23 (available at: http://www.energy.ca.gov/2007publications/CEC-300-2007-006/CEC-300-2007-006-CMF.PDF); the third edition, pub. December 2007, pp. 20-21 (available at: http://www.energy.ca.gov/2007publications/CEC-300-2007-006/CEC-300-2007-006-ED3-CMF.PDF); and the fourth, current edition, pub. January 2011, pp. 18-21 (available at: http://www.energy.ca.gov/2010publications/CEC-300-2010-007/CEC-300-2010-007-CMF.PDF).

Including electricity generated at California facilities by burning pipeline biomethane in Category One is necessary to be consistent with SB 2 (1X) policy. SB 2 (1X) sets a goal of "procuring least-cost and best-fit electricity products from eligible renewable energy resources."[4] Electricity generated by burning pipeline biomethane in a California power plant is a "least-cost/best-fit" product. It does not require costly or environmentally questionable electrical transmission expansion. It does not strand existing generation resources. It can be used to follow load, avoiding investment in firming and shaping arrangements. A conclusion other than the conclusion reached in the Proposed Decision would be inconsistent with the SB 2 (1X) policy favoring least-cost/best-fit renewable products.

Given the importance of the conclusion that electricity generated at RPS-eligible facilities that use RPS-eligible pipeline biomethane and meet the criteria for Category One can be included in Category One, that conclusion should be included in the Conclusions of Law, as set out in Appendix A, and should also be reflected in the Ordering Paragraphs of the Proposed Decision.

III. RECS FROM CALIFORNIA FACILITIES SHOULD BE CLASSIFIED IN CATEGORY ONE.

The Proposed Decision mistakenly interprets SB 2 (1X) as providing for all unbundled RECs to be in Category Three. The Proposed Decision states:

> Unbundled RECs, as TURN points out, are identified as belonging in § 399.16(b)(3) and are mentioned only in § 399.16(b)(3). The statutory text itself, therefore, places unbundled RECs in that portfolio content category. Since the categories are separate, that is where unbundled RECs belong. There is no reason, textual or otherwise, to believe that the Legislature specifically identified unbundled RECs as belonging in § 399.16(b)(3), but really intended some of them to belong in § 399.16(b)(1).

[4] SB 2 (1X), PUC section 399.16(b).

Proposed Decision at 32. The Proposed Decision errs in law and policy. Neither the wording of SB 2 (1X) nor the policy underlying SB 2 (1X) support categorizing unbundled RECs from California resources as Category Three rather than Category One.

A. SB 2 (1X) does not include all unbundled RECs in Category Three.

SB 2 (1X) does not include all unbundled RECs in Category Three. PUC section 399.16(b)(3) defines Category Three with the dependent clause "that do not qualify under the criteria of paragraph (1) or (2)" at the end of the section as follows:

> Eligible renewable energy resource electricity products, or any fraction of the electricity generated, including unbundled renewable energy credits, *that do not qualify under the criteria of paragraph (1) or (2)*.

The Proposed Decision restates this provision by moving the dependent clause, "that do not qualify under the criteria of paragraph (1) or (2)," from the end of PUC section 399.16(b)(3) to the middle so that, in the restatement, the dependent clause follows the phrase "Eligible renewable energy resource electricity products." As a result, the dependent clause no longer qualifies the entirety of the section and no longer qualifies "unbundled renewable energy credits." The restatement in the Proposed Decision is as follows:

> 1. "[e]ligible renewable energy resource electricity products ... that do not qualify under the criteria of paragraph (1) or (2);"
>
> 2. "any fraction of the electricity generated" that does not qualify under the criteria of paragraph (1) or (2); and
>
> 3. "unbundled renewable energy credits."

Proposed Decision at 44-45.

The Proposed Decision's restatement of PUC section 399.16(b)(3) is inconsistent with the statute. The consequence of the Legislature appending the dependent clause, "that do not qualify under the criteria of paragraph (1) or (2)," to the end of the list of products in PUC

section 399.16(b)(3) is that the dependent clause modifies every item in the list. The words of a statute must be construed in context.[5] By rewriting PUC section 399.16(b)(3) to move the dependent clause "that do not qualify under the criteria of paragraph (1) or (2)" so that the clause no longer modifies all of the products listed in PUC section 399.16(b)(3) including "unbundled renewable energy credits," the Proposed Decision takes the clause out of context.

A regulation is not valid unless it is consistent and not in conflict with the underlying statute. Government Code section 11342.2 provides:

> Whenever by the express or implied terms of any statute a state agency has authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of the statute, no regulation adopted is valid or effective unless consistent and not in conflict with the statute and reasonably necessary to effectuate the purpose of the statute.

By rewriting PUC section 399.16(b)(3) to move the dependent clause so that it does not appear at the end of the section, the Proposed Decision reaches a result that violates Government Code section 11342.2.

PUC section 399.16(b)(3) does not provide for *all* unbundled RECs to fall into Category Three. Instead, as a result of the dependent clause "that do not qualify under the criteria of paragraph (1) or (2)" being placed at the end of the section, it clearly provides for only a subset of unbundled RECs fall into this category – those that do not meet the criteria for the other portfolio content categories. The correct interpretation of Category Three is to apply the qualifying phrase "that do not qualify under the criteria of paragraph (1) or (2)" so that it applies to each product in the list in PUC section 399.16(b)(3) as follows:

> 1. "[e]ligible renewable energy resource electricity products ... that do not qualify under the criteria of paragraph (1) or (2);"

[5] *Lakin v. Watkins Associated Industries* (1993), 6 Cal.4th 644, 659.

> 2. "any fraction of the electricity generated" that does not qualify under the criteria of paragraph (1) or (2); and
>
> 3. "unbundled renewable energy credits" that do not qualify under the criteria of paragraph (1) or (2).

The contrary result that is reached in the Proposed Decision is unlawful and should be reversed.

B. The definition of Category One in PUC section 399.16(b)(1) does not exclude unbundled RECs from Category One.

Category One as defined in PUC section 399.16(b)(1) includes transactions that transfer only RECs, as long as the RECs are from RPS-eligible generators that are located in California or have a first point of interconnection with a California balancing authority. This interpretation is clear from the wording of PUC section 399.16(b)(1)(A). If an RPS-eligible generator has:

> a first point of interconnection with a California balancing authority, [has] a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or [is] scheduled . . . into California without substituting electricity from another source,

the generator's product falls within PUC section 399.16(b)(1) without regard for whether the associated REC is subsequently sold with energy on a bundled basis or is sold apart from the energy on an unbundled basis.

C. Including unbundled RECs in Category One if the unbundled RECs are associated with energy that meets the criteria for Category One is consistent with the policy objectives of SB 2 (1X).

There is no policy reason why RECs that were bundled with energy generated from the eligible renewable energy resource and classified in Category One should lose that classification when unbundled. In order to be classified in Category One initially, the energy must have been generated in California or delivered to California, and the objective of Category One will have been served. If the RECs associated with that energy are unbundled at any stage, the energy still

will have been generated in California or delivered to California, and the objective of Category One will still have been served.

It would be consistent with the policy objectives of SB 2 (1X) to include RECs within PUC section 399.16(b)(1) if the generator that produces the RECs meets the criteria of PUC section 399.16(b)(1), regardless of whether the transfer of the REC occurs on a bundled or unbundled basis. PRC section 25740.5(c) (section 4 of SB 2 (1X)) provides:

> The program objective shall be to increase, in the near term, the quantity of California's electricity generated by renewable electrical generation facilities located in this state, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents.

Including unbundled as well as bundled RECs within PUC section 399.16(b)(1) would promote the development of renewable generation facilities in California by increasing the options that a California RPS-eligible generator would have for taking full economic advantage of its project.

The Proposed Decision opines that allowing unbundled RECs in Category One would drive up the cost of the RPS by leading to the repeated sale of the Category One RECs at premium prices.[6] However, the premium placed on a Category One REC will depend on the market value of such RECs. The market value will be driven by the scarcity or abundance of renewable energy generated in California. Thus, the market value will be determined in the same way that prices for bundled California renewable energy and RECs will be determined and will not necessarily increase with each sale of the REC.

On the other hand, excluding a California renewable energy generator's product from Category One if the associated REC were sold on an unbundled basis would diminish the economic value of the renewable energy project. Diminishing the value of California projects

[6] Proposed Decision at 33.

would be inconsistent with the Legislature's objective of increasing "the quantity of California's electricity generated by renewable electrical generation facilities located in this state . . ."[7] It would also make it more difficult and expensive to comply with the RPS by limiting the options available to entities seeking Category One resources, particularly entities that happen to be fully resourced.

D. Including unbundled RECs in Category One if the unbundled RECs are associated with energy that meets the criteria for Category One would not result in double-counting.

Including unbundled RECs in Category One if the unbundled RECs are associated with energy that meets the criteria for Category One would not result in double-counting. The Proposed Decision provides that:

> Once a REC is separated from the renewable generation with which it was originally associated, the electricity with which the REC was originally associated is not RPS-eligible.

Finding of Fact 8; Proposed Decision at 56. The provision that the electricity with which the REC was originally associated is not RPS-eligible will prevent double counting if RECs are unbundled and sold separately. The characteristic of the renewable generation – its "renewableness" – remains with the REC rather than with the energy. Consistent with this approach, the portfolio content categorization of the renewable generation should remain with the REC even if it is unbundled.

From an implementation perspective, determining which RECs come from California or California-connected sources will not be difficult. Each REC issued by the Western Renewable Energy Generation Information System ("WREGIS") carries information about the name and

[7] PRC § 25740.5(c).

location of the generating facility that generated the REC,[8] so it will be straightforward to confirm whether a particular REC meets the criteria of PUC section 399.16(b)(1). The source of the REC will remain unchanged and can be easily verified, providing a "bright line" separating the portfolio content categories as required in the Proposed Decision.[9]

E. The Proposed Decision should allow unbundled RECs to be classified in Category One if the unbundled RECs are associated with energy that meets the criteria for Category One.

For the reasons set out above, unbundled RECs should not be excluded from Category One. Unbundled RECs should be classified in Category One if they are generated at a facility that is located in California or otherwise meets the requirements of PUC section 399.16(b)(1).

Certain changes to the Proposed Decision are necessary to give effect to this conclusion. The requirement for Categories One and Two that retail sellers must "demonstrate that the renewable energy credits originally associated with the electricity have not been unbundled and transferred to another owner" (Conclusions of Law 12, 13, 14, 15 and 16; Proposed Decision at 58-60) should be deleted, as set out in Appendix A.

The definition of Category Three (Conclusion of Law 17; Proposed Decision at 60-61) should be revised to exclude unbundled RECs that originated at a facility that meets the criteria for Category One or Category Two. Proposed revisions to Conclusion of Law 17 are set out in Appendix A.

In addition, the Commission's conclusion that RECs from grandfathered contracts that are subsequently unbundled will fall into Category Three (Conclusion of Law 21; Proposed Decision at 61-62) should be revised. RECs from grandfathered contracts that are subsequently

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[8] *See* Appendix B-1 ("Data Fields on a Certificate") to the WREGIS Operating Rules, December 2010, available at http://www.wregis.org/uploads/files/851/WREGIS%20Operating%20Rules%20v%2012%209%2010.pdf.

[9] Proposed Decision at 32.

unbundled will fall into Category One if the facility that generated the RECs is located in California or otherwise meets the interconnection requirements in PUC section 399.16(b)(1). Only unbundled RECs from facilities that do not meet the requirements for Categories One or Two will fall into Category Three. Proposed revisions to Conclusion of Law 21 are set out in Appendix A.

These changes should also be reflected in the Ordering Paragraphs of the Proposed Decision.

IV. REFERENCES TO "BUYER" IN RELATION TO CATEGORY TWO SHOULD BE CLARIFIED.

The Proposed Decision sets out the following requirements for electricity to count towards Category Two:

1. The buyer simultaneously purchases energy and associated RECs from the RPS-eligible generation facility.

2. The energy purchased from the RPS-eligible generation facility is available to the buyer (i.e., the purchased energy must not in practice be already committed to consumption by another party).

3. The buyer acquires the substitute energy at the same time as it acquires the renewables portfolio standard-eligible energy.

4. The renewable energy credits originally associated with the electricity have not been unbundled and transferred to another owner.

Conclusion of Law 16; Proposed Decision at 60.

These requirements do not appear to take into account a common method of procuring firmed and shaped renewable energy. Consider the situation where Party A purchases renewable energy and RECs from a renewable energy plant outside California, where no direct transmission into California is available. Party A sells the energy into the local market and sells the RECs to Party B together with firmed and shaped electricity from another source that can be delivered

into California. Party B has effectively procured firmed and shaped renewable energy, with RECs, in a way that allows it to import the energy into California.

This procurement structure may be necessary if – as is the case for SCPPA members – Party B is a local publicly-owned utility bound by strict risk management principles that prevent it from contracting directly with a renewable energy developer that does not have a high credit rating. Party B can, however, purchase energy from Party A if Party A is well-established and has a high credit rating.

Such procurement structures fit within the general definition of Category Two in PUC section 399.16(b)(2):

> Firmed and shaped eligible renewable energy resource electricity products providing incremental electricity and scheduled into a California balancing authority.

However, it is unclear whether the Proposed Decision's requirements for Category Two – particularly in relation to the use of the word "buyer" – recognize such procurement structures.

If the Proposed Decision precludes such procurement structures from being classified as Category Two, the flexibility of parties to implement the RPS in a way that reduces their risk and costs would be unnecessarily reduced, and the cost of complying with the RPS would increase.

The Proposed Decision should recognize such procurement structures by clarifying the references to "buyer" in the above requirements. In the first and second requirements, the "buyer" should include an entity in the situation of Party A as described above. The third requirement should be revised to refer to a buyer (including an entity in the situation of Party B as described above) that acquires substitute energy at the same time it procures either the RPS-eligible energy or the RECs generated by the eligible renewable energy resource.

As discussed in section III above, SB 2 (1X) does not require all unbundled RECs to be classified in Category Three, and so the fourth requirement for Category Two set out above

should be deleted. In the procurement structure outlined above, Party A has unbundled the RECs and sold them to Party B together with energy. This fact should not prevent Party B from being able to classify the firmed and shaped energy it receives, together with RECs, as Category Two.

Proposed revisions to Conclusion of Law 16 are set out in Appendix A. These changes should also be reflected in the Ordering Paragraphs of the Proposed Decision.

V. CLARIFY THE REQUIREMENTS THAT APPLY TO ELECTRICITY SCHEDULED INTO CALIFORNIA WITHOUT SUBSTITUTING ELECTRICITY FROM ANOTHER SOURCE.

The Proposed Decision sets out several requirements for utilities to show that energy is "scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source" under PUC section 399.16(b)(1)(A). Among other requirements, the utility seeking to count that generation as Category One must show that:

- Substitution of electricity from another source is unlikely to occur, whether because the transmission arrangements are sufficiently reliable or for some other documented reason. (Proposed Decision at 26.)

- None of the energy scheduled into the California balancing authority was substitute energy. (Proposed Decision at 27.)

The Proposed Decision notes that e-Tags may not be sufficient to demonstrate that specific RPS-eligible generation was delivered to a particular California balancing authority (Proposed Decision at 24). However, the Proposed Decision does not specify what will be sufficient to demonstrate compliance with the above requirements.

The Proposed Decision should include further details on this issue so that utilities have clear guidance on whether and how to use the relevant sub-part of Category One. Given the importance of Category One in complying with the RPS program, no part of this category should be left ambiguous or unattainable.

SCPPA suggests that e-Tags together with schedules from the California Independent System Operator ("CAISO") can be used to show compliance with the above requirements. Together, CAISO schedules and e-Tags provide sufficient information to demonstrate that electricity scheduled from the eligible renewable energy resource into a California balancing authority is not substituted with electricity from another source. Proposed changes to Conclusion of Law 14 are set out in Appendix A. These changes should also be reflected in the Ordering Paragraphs of the Proposed Decision.

VI. CONCLUSION.

SCPPA appreciates the opportunity to provide these comments to the Commission in this proceeding and requests the Commission to modify the Proposed Decision in accordance with these comments.

Respectfully submitted,

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Dated: November 3, 2011

APPENDIX A:

PROPOSED CHANGES TO CONCLUSIONS OF LAW IN THE PROPOSED DECISION

12. Procurement of eligible renewable energy resource electricity products from contracts signed on or after June 1, 2010 may be counted in the portfolio content category described in Pub. Util. Code § 399.16(b)(1), as effective December 10, 2011, if the generation facility producing the electricity is certified as eligible for the California RPS and has its first point of interconnection to the WECC transmission grid within the metered boundaries of a California balancing authority area, so long as all other procurement requirements for compliance with the California RPS are met.

13. Procurement of eligible renewable energy resource electricity products from contracts signed on or after June 1, 2010 may be counted in the portfolio content category described in Pub. Util. Code § 399.16(b)(1), as effective December 10, 2011, if the generation facility producing the electricity is certified as eligible for the California RPS and has its first point of interconnection with the electricity distribution system used to serve end user customers within the metered boundaries of a California balancing authority area, so long as all other procurement requirements for compliance with the California RPS are met.

14. Procurement of eligible renewable energy resource electricity products from contracts signed on or after June 1, 2010 may be counted in the portfolio content category described in Pub. Util. Code § 399.16(b)(1), as effective December 10, 2011, if the generation facility producing the electricity is certified as eligible for the California RPS and the generation from that facility is scheduled into a California balancing authority without substituting electricity from any other source, so long as all other procurement requirements for compliance with the California RPS are met; and provided that, if another source provides real-time ancillary services

required to maintain an hourly or subhourly import schedule into the California balancing authority only the fraction of the schedule actually generated by the generation facility from which the electricity is procured may count toward this portfolio content category. E-Tags together with schedules from the California Independent System Operator provide sufficient and acceptable evidence to demonstrate that electricity scheduled from the eligible renewable energy resource into a California balancing authority is not substituted with electricity from another source.

15. Procurement of eligible renewable energy resource electricity products from contracts signed on or after June 1, 2010 may be counted in the portfolio content category described in Pub. Util. Code § 399.16(b)(1), as effective December 10, 2011, if the generation facility producing the electricity is certified as eligible for the California RPS and the generation from that facility is scheduled into a California balancing authority pursuant to a dynamic transfer agreement between the balancing authority where the generation facility is interconnected and the California balancing authority into which the generation is scheduled, so long as all other procurement requirements for compliance with the California RPS are met.

16. Procurement of eligible renewable energy resource electricity products from contracts signed on or after June 1, 2010 may be counted in the portfolio content category described in Pub. Util. Code § 399.16(b)(2), as effective December 10, 2011, if the generation facility producing the electricity is certified as eligible for the California RPS and the generation from that facility is firmed and shaped with substitute electricity scheduled into a California balancing authority within the same calendar year as the generation from the facility eligible for the California RPS, and if the substitute electricity provides incremental electricity, if the following

conditions are met, so long as all other procurement requirements for compliance with the California RPS are also met:

- the party that purchases the renewable energy from the RPS-eligible generation facility simultaneously purchases the associated RECs from the RPS-eligible generation facility;
- the energy purchased from the RPS-eligible generation facility is available to that party (i.e., the purchased energy must not in practice be already committed to consumption by another party);
- the party that seeks to claim the firmed and shaped renewable energy for RPS purposes acquires the substitute energy at the same time as it acquires the RPS-eligible energy or the RECs.

17. Procurement of eligible renewable energy resource electricity products from contracts signed on or after June 1, 2010 may be counted in the portfolio content category described in Pub. Util. Code § 399.16(b)(3), as effective December 10, 2011, if either of the following conditions is met, so long as all other procurement requirements for compliance with the California RPS are met:

- The procurement consists of unbundled renewable energy credits originally associated with generation eligible under the California renewables portfolio standard and that does not qualify to be counted in either the portfolio content category described in Pub. Util. Code § 399.16(b)(1), as effective December 10, 2011, or the portfolio content category described in Pub. Util. Code § 399.16(b)(2), as effective December 10, 2011; or
- The procurement consists of any generation eligible under the California renewables portfolio standard that does not qualify to be counted in either the portfolio content category described in Pub. Util. Code § 399.16(b)(1), as effective December 10, 2011, or

the portfolio content category described in Pub. Util. Code § 399.16(b)(2), as effective December 10, 2011.

21. Procurement from contracts signed prior to June 1, 2010 and meeting the conditions set out in new § 399.16(d) should be counted for RPS compliance without regard to the limitations on use of each portfolio content category established by Pub. Util. Code § 399.16(b), as effective December 10, 2011, provided that, if any RECs from a contract signed prior to June 1, 2010, are unbundled and sold separately after June 1, 2010, the underlying energy should not be used for RPS compliance and the unbundled RECs should be counted in accordance with the limitations on procurement of each portfolio content category of Pub. Util. Code § 399.16(b), as set out in Pub. Util. Code § 399.16(c).

22. Procurement of eligible renewable energy resource electricity products from contracts signed on or after June 1, 2010 may be counted in the portfolio content category described in Pub. Util. Code § 399.16(b)(1), as effective December 10, 2011, if the generation facility producing the electricity is certified by the California Energy Commission as RPS-eligible, the facility is using pipeline biomethane in accordance with the relevant requirements of the California Energy Commission, and the facility is directly interconnected with the transmission or distribution system in a California balancing authority area, or has its electricity output scheduled into a California balancing authority without substitution of electricity from another source, or its electricity output is dynamically transferred to a California balancing authority, so long as all other procurement requirements for compliance with the California RPS are met.

23. In order to promote effective compliance with the new RPS requirements of SB 2 (1X), this order should be effective immediately.

VERIFICATION

I, Norman A. Pedersen, am counsel of record for the Southern California Public Power Authority in proceeding R.11-05-005 and am authorized to make and execute this verification on its behalf because the facts are within my knowledge.

I hereby verify that the statements made in the foregoing **COMMENTS OF THE SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ON THE PROPOSED DECISION IMPLEMENTING PORTFOLIO CONTENT CATEGORIES FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM** are true of my own knowledge, except as to the matters which are therein stated on my information and belief, and as to those matters I believe the statements to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 27, 2011 at Los Angeles, CA.

/s/ Norman A. Pedersen

Norman A. Pedersen