

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)

**NOTICE OF EX PARTE COMMUNICATIONS**

Pursuant to Rule 8.3 of the Commission's Rules of Practice and Procedure, the Center for Energy Efficiency and Renewable Technologies (CEERT) hereby gives notice of the following two ex parte communications.

Both communications occurred on Tuesday, November 29, 2011, and involved the same information. The communications were oral and written (see attached Appendix A) and took place at the Commission's offices at 505 Van Ness Avenue, San Francisco, California 94102.

The communications were initiated by Sara Steck Myers, attorney for CEERT. The first communication occurred at 11:00 a.m. with Sara Kamins, advisor to Commissioner Mark Ferron. The second communication occurred at 1:00 p.m. with Colette Kersten, energy advisor for Commissioner Catherine Sandoval. Varner Seaman, Senior Manager, Government and Regulatory Affairs, for EDPR NA, was also present at each of these communications.

Ms. Myers started each meeting by providing a copy of the attachment included and incorporated in this notice as Appendix A. Both Ms. Myers and Mr. Seaman addressed each of the points identified in Appendix A relative to the issue of the Renewable Portfolio Standard (RPS) portfolio content categories addressed in a pending Proposed Decision of Administrative Law Judge (ALJ) Simon issued in R.11-

05-005 (RPS) on October 27, 2011. Ms. Myers stated that Appendix A identified certain changes or clarifications to be made in the Proposed Decision that would ensure consistency with Senate Bill (SB) 1X 2, while promoting greater certainty in the Commission's directions to both RPS obligated retail sellers and RPS-eligible renewable energy resources.

Specifically, Ms. Myers, as indicated in Appendix A (Slides 1-3, 7), asked that the Proposed Decision confirm that renewable energy credits (RECs), unbundled and remarketed apart from the underlying electricity, be considered Category 3 (except where bundled energy and RECs are instantaneously resold without change to their original attributes); consistent with the law, firm transmission should not be a requirement for Category 1 or create a higher value among Category 1 products; and a combination of metered data, eTags, and Western Renewable Energy Generation Information System (WREGIS) certificates can and should be used to verify category compliance.

As to Category 2 qualifying products, Mr. Seaman, with reference to Appendix A, Slides 4-5, indicated that the firming and shaping (F/S) agreement could be brought to the Commission for its review and approval at the same time as the agreement for procurement of eligible renewable resource generation. However, he advised that, given the limited availability of F/S services greater than 10 years, these agreements should be required to align, but not necessarily match exactly to the term of the procurement agreement. Mr. Seaman indicated that it would be possible to offer a further compliance filing to include an F/S agreement that would cover the remainder of the procurement contract term when the original F/S agreement expired.

Mr. Seaman, with reference to Slide 6, also cited to a sentence at pages 11 through 12 of the Proposed Decision, which states: “One RPS procurement contract can thus either sell one ‘product,’ or provide for the sale of different ‘products’ meeting different portfolio content category criteria, as long as the criteria are clearly differentiated and the information necessary for Energy Division staff’s evaluation of IOUs’ contracts (including upfront showing of portfolio content category) is provided.” Mr. Seaman urged that examples, like that provided in Appendix A, be provided in the Proposed Decision to offer greater clarity as to what such multi-product transactions would be acceptable.

Finally, Ms. Myers noted, as reflected in Appendix A, Slides 8-9, that it was CEERT’s position that the issue of the RPS eligibility of biomethane gas was currently pending before the California Energy Commission (CEC) and that it was CEERT’s hope that Commission-adopted product content categories would reflect CEC determinations made in its RPS Eligibility Guidebook. However, in the event that the Commission chose to address this issue, Ms. Myers stated that CEERT had offered comments at the CEC to indicate that only in-state onsite biogas or in-state directed biogas should be considered Category 1.

To obtain a copy of this notice, please contact:

Sara Steck Myers  
Attorney at Law  
Telephone: (415) 387-1904  
FAX: (415) 387-4708  
E-mail: [ssmyers@att.net](mailto:ssmyers@att.net)

Respectfully submitted by:

December 2, 2011

/s/ SARA STECK MYERS

Sara Steck Myers  
Attorney for CEERT  
122 – 28<sup>th</sup> Avenue  
San Francisco, CA 94121  
(415) 387-1904 (Telephone)  
(415) 387-4708 (FAX)  
[ssmyers@att.net](mailto:ssmyers@att.net) (email)

## APPENDIX A

# R.11-05-005 (RPS)

## Proposed Decision on RPS Portfolio Content Categories Category Issue Solutions & Biomethane Treatment

Center for Energy Efficiency and Renewable Technologies  
November 28, 2011

## RPS Portfolio Content Categories: Striking a Balance on Key Outstanding Issues

- Multi-party “consensus” proposal addressed many issues satisfactorily.
- Objectives for resolving remaining issues.
  - Address Commissioners’ concerns about flexibility and cost.
  - Address Commissioners’ concerns about providing real products to electric consumers.
  - Ensure consistency with SB(1x) 2.

## Resolving Certain Category 1 Issues

- RECs that are unbundled and remarketed apart from the underlying electricity become Category 3 RECs (with one clarification).
  - Approach is consistent with PD.
  - Applies to all four types of Category 1 products.
  - One clarification: bundled energy and RECS may be instantaneously resold without changing their original (Category 1 or 2) attributes.
- Firm transmission should not be a requirement for Category 1 product.
- Combination of metered data, eTags, and WREGIS certificates are sufficient to verify Category 1 imports until a new tracking system is implemented.



## Resolving Certain Category 2 Issues

- Flexibility to firm and shape (F/S) in Category 2.
  - Bring contract for F/S services, not specific energy procurement, to CPUC for approval simultaneously with procurement of eligible renewable resource.
  - No minimum length for Category 2 contract, but must align with underlying renewable energy procurement.
    - e.g., 2-year Eligible Renewable Resource (ERR) procurement with 2-year F/S contract.
    - However, for ERR procurement greater than 5 years with F/S service, the F/S contract must be for a minimum 5 year-term, but need not match exactly because of limited availability of F/S contracts greater than 5 years (see example on following slide).
  - No NERC subregion requirement for F/S energy that complements eligible renewable resource.

## Category 1/2 Product Chronology

1. Utility negotiates a purchase from a wind facility in BPA's control area delivered to COB.
2. Utility brings the following to the Commission for approval:
  - 15 year PPA.
  - 10 year firming and shaping contract. (F/S energy under the contract is additive to utility's portfolio.)
  - A non-binding estimate of quantities of each product categories to be provided.
3. Commission reviews and approves procurement.

## Category 1/2 Product Qualification

- Products procured under these approved agreements will qualify in part as Category 1 and in part as Category 2 as follows:
  - When the project is generating energy sufficient to meet the delivery requirement, the power is scheduled “source-to-sink” within the hour to COB.
    - This quantity qualifies as Category 1.
  - When the project is not generating energy sufficient to meet the delivery requirement, F/S energy from other sources is scheduled to COB to meet the delivery obligation and matched with RECs from generation not delivered under Category 1.
    - This quantity qualifies as Category 2.

## Category 1/2 Product Verification

- Category 1 verification can be demonstrated by:
  - Hourly metered data demonstrating actual generation.
  - NERC eTags demonstrating generation source (specific facility and CEC ID#), transmission path(s), sink.
  - WREGIS certificates.
- Category 2 verification can be demonstrated by:
  - F/S energy and RECs are reconciled over a calendar year.
  - eTags for F/S energy deliveries matched with WREGIS certificates.

# Pipeline Biomethane

## *Decision Forums & Timeline:*

- CEC will address RPS eligibility for generation facilities that combust nonrenewable natural gas as a proxy for biomethane in the RPS Eligibility Guidebook.
- CPUC should work with the CEC to develop product content categories that are consistent with the RPS Eligibility Guidebook.
- To the extent that the CPUC decides the content category for this resource now, CEERT believes its recommendations to the CEC (following slide) on this issue are appropriate .

# Pipeline Biomethane

## *Treatment:*

- CEERT’s proposal to the CEC on the treatment of this resource is equally applicable to the CPUC’s consideration of this issue in the Proposed Decision.

<b>Category 1</b>	<b>Uncertain</b>	<b>Category 3</b>
In-state onsite biogas	Out-of-state biogas injected into a pipeline that can be demonstrated – on a net-basis – to flow into California	Out-of-state biogas that cannot on a net-basis be demonstrated to physically flow into California
In-state directed biogas		

**Source:** CEERT Suggested Categorization of Various Biomethane Transactions for Portfolio Content Categories under SB X1 2 (CEERT Comments to CEC: September 30, 2011).

## VERIFICATION

### (Rule 1.11)

I am the attorney for the Center for Energy Efficiency and Renewable Technologies (CEERT). Because CEERT is absent from the City and County of San Francisco, California, where I have my office, I make this verification for said party for that reason. The statements in the foregoing Notice of Ex Parte Communications, have been prepared and read by me and are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct and executed on December 2, 2011, at San Francisco, California.

Respectfully submitted,

/s/ SARA STECK MYERS

Sara Steck Myers  
Attorney at Law  
122 – 28<sup>th</sup> Avenue  
San Francisco, CA 94121  
(415) 387-1904  
(415) 387-4708 (FAX)  
[ssmyers@att.net](mailto:ssmyers@att.net)

Attorney for the  
Center for Energy Efficiency and  
Renewable Technologies