

**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 POWEREX CORPORATION
ON RPS REPORTING AND COMPLIANCE REQUIREMENTS**

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February 10, 2012

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In accordance with the ruling of the presiding administrative law judge dated February 1, 2012, Powerex Corp. (“Powerex”) submits supplemental comments addressing reporting and compliance requirements for the Renewables Portfolio Standard Program.

Powerex’s comments are limited to addressing certain sections of the Request for Supplemental Comments, as specifically referenced below.

QUESTION 1:

Section 399.13(a)(3) requires that each retail seller must submit an annual RPS compliance report. What information should the annual RPS compliance report contain? Please consider both the requirements set out in Section 399.13(a)(3) and the information provided in compliance reports submitted through 2010.

RESPONSE:

Powerex supports the Commission statement that “effective and efficient administration of the portfolio content mandates of SB2 (1x) will require modifying existing systems and developing new ones.”¹

¹ D. 11-12-052 at 44.

While there is no single, existing system that contains sufficient information to allow the Commission to make informed compliance determinations, Powerex believes that retail sellers can extract data from several existing information sources, including NERC e-tags, plant meter data, WREGIS certificates and contracts, that will provide the Commission an adequate basis for making required compliance determinations. Powerex addresses its recommended information requirements for each of the three portfolio content categories below.

Category 1

At Section 3.5.5 of D. 11-12-052 (“Decision”), the Commission notes the following with respect to facilities not interconnected to a California Balancing Authority (CBA):

“any retail seller claiming generation in this category must be prepared to show, in a Commission RPS filing, that:

- If the criterion of hourly scheduling into a California balancing authority without substitution of electricity is being used, that the retail seller can know, for any scheduling hour for which procurement in this category is claimed, the following information:
 - How much RPS-eligible energy was generated;
 - How much generation was scheduled;
 - How much generation was delivered;
 - How much of the scheduled delivery was provided by ancillary services;
 - That none of the energy scheduled into the California balancing authority was substitute energy.”

As discussed in Powerex’s comments on the ALJ Request for Comments on the Implementation of New Portfolio Content Categories for the RPS Program issued July 12, 2011 and the Proposed Decision of Administrative Law Judge Simon issued October 7, 2011, Powerex believes that a combination of information from various

existing sources may be compiled to provide the Energy Division staff with sufficient data to make compliance determinations. Revenue meter data can be used to verify the actual hourly output of an eligible renewable resource (ERR) and information contained on e-Tags can be used to demonstrate the total energy that was scheduled and delivered on a transmission path from the ERR's source point into a California balancing authority. By counting the lesser of these two amounts, the retail seller ensures that only energy generated and delivered is eligible for RPS compliance under Category 1.

For example, in the event that the e-Tag for a particular hour is 50MW and the meter data for the same hour is 48MW, only 48MW will count as Category 1 and 2MW will be considered imbalance energy, which has no RPS value. If during the following hour, the e-Tag was for 50MW and the meter data was for 53 MW, only 50MW would count as Category 1 and the 3MW of excess generation would qualify as one of the other two product content categories.

Powerex agrees with the Decision's expectation that for the purpose of upfront showing and compliance determinations "it is likely that modifications to the Energy Division's current advice letter template and RPS compliance spreadsheet will be required."² For compliance filings, sufficient data is available to allow retail sellers to provide information in an updated version of the Commission's RPS compliance spreadsheet, relying upon and combining the hourly e-tag delivery information, revenue meter data, WREGIS certificates, and the contract for the output of the ERR. For a nominal fee, retail sellers can access e-tag information from Open Access Technology International (OATI). The right to access required revenue meter data for verification

² D. 11-12-052; Section 3.3.2 at 1.

purposes is typically included in RPS contracts. The Commission could rely on the data submitted by retail sellers to verify compliance with the RPS program using simple database software queries with reporting functions.

While recognizing that WREGIS does not collect data on an hourly level, Powerex nevertheless believes that WREGIS still has an essential role in verifying title claims to RPS eligible generation.

Category 2

In Section 3.6.5 of the Decision (p. 67), the Commission notes the following:

“staff must be able to determine that the elements of a firmed and shaped transaction described in this decision are present in the procurement at issue, including the requirement that the substitute energy scheduled into a California balancing authority is ‘incremental’ as defined in this decision, or subsequent Commission decision or legislative enactments.”

For compliance reporting purposes, retail sellers could specify in the Commission’s RPS compliance spreadsheet the ERR output they have allocated towards Category 2. A combination of e-tag data, to show firmed and/or shaped delivery to a CBA would also be included in the spreadsheet. It should be clear in the retail seller’s purchase contract that the substitute energy is incremental. Retired WREGIS certificates would verify ERR plant output on an aggregate monthly level.

Category 3

In Section 3.7.2 of the Decision (p. 73), the CPUC states

“for compliance determinations for unbundled REC purchases, all retail sellers must provide information allowing the Commission to determine

that the unbundled RECs claimed for RPS compliance were retired in WREGIS for RPS compliance as required by new 399.21(a)(6)³. For compliance determinations for procurement meeting either of the other criteria in new 399.16(b)(3)⁴, the retail seller must provide enough detail about the transactions so that the portfolio content category classification may be properly determined and demonstrated to the satisfaction of the Director of Energy Division.”

As a part of their compliance filings, retail sellers can demonstrate compliance of Category 3 products by providing documentation of retired WREGIS certificates associated with an ERR.

QUESTIONS 2 & 3:

- In addition to the annual RPS compliance reporting requirement in Section 399.13(a)(3), should the Commission require an RPS progress report from retail sellers during the same calendar year? Please explain why or why not.
 - If there should be a progress report, should it contain the same information as the annual compliance report?
- In addition to the annual RPS compliance reporting requirement in Section 399.13(a)(3), should the Commission require a separate report on compliance for an entire compliance period?

RESPONSE:

Currently the Commission is considering the frequency of compliance reports required for documentation adequacy (end-of-compliance-period reports, annual reports and progress reports throughout the year). Powerex believes, to make the process as efficient and effective as possible, all retail sellers’ compliance reports, regardless of

³ A renewable energy credit shall not be eligible for compliance with a renewables portfolio standard procurement requirement unless it is retired in the tracking system established pursuant to subdivision (c) of Section 399.25 by the retail seller or local publicly owned electric utility within 36 months from the initial date of generation of the associated electricity.

⁴ 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).

frequency, should include a consistent set of data. This will allow the Energy Division staff to draw from a consistent dataset provided by each retail seller to make its final compliance determination. The dataset Powerex has suggested for each portfolio content category – which is simply an augmented version of the Commission’s current RPS compliance spreadsheet - could be updated as needed and submitted to the Commission.

Powerex thanks the Commission in advance for its anticipated consideration of these comments.

Respectfully submitted this 10th day of February, 2012 at San Francisco, California.

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By /s/ James D. Squeri
James D. Squeri

VERIFICATION OF COUNSEL

I, James D. Squeri, declare:

I am an attorney at law, duly admitted and licensed to practice before all courts of this state, and I have my professional office at Goodin, MacBride, Squeri, Day & Lamprey, LLP, 505 Sansome Street, Suite 900, San Francisco, California 94111.

I am an attorney for Powerex Corp. ("Powerex") in the subject proceeding.

No officer of Powerex is present in the county in which I have my office and, for that reason, I am making this verification on behalf of Powerex.

I have read the foregoing COMMENTS OF POWEREX CORPORATION ON RPS REPORTING AND COMPLIANCE REQUIREMENTS and know the contents thereof. I am informed and believe that the matters stated therein are true and, on that ground, I allege that the matters stated therein are true.

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

Executed at San Francisco, California, on this 10th day of February 2012.

/s/ James D. Squeri
James D. Squeri