

**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)

**JOINT COMMENTS OF BEAR VALLEY ELECTRIC SERVICE (U 913-E), A  
DIVISION OF GOLDEN STATE WATER COMPANY AND CALIFORNIA PACIFIC  
ELECTRIC COMPANY, LLC (U 933-E) ON ADMINISTRATIVE LAW JUDGE'S  
RULING REQUESTING SUPPLEMENTAL COMMENTS ON REPORTING AND  
COMPLIANCE REQUIREMENTS FOR THE RENEWABLES PORTFOLIO  
STANDARD PROGRAM**

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STANDARD PROGRAM**

Pursuant to the February 1, 2012 Administrative Law Judge’s Ruling Requesting Supplemental Comments on Reporting and Compliance Requirements for the Renewables Portfolio Standard Program (“ALJ Ruling”), Bear Valley Electric Service (U 913-E) (“BVES”), a division of Golden State Water Company and California Pacific Electric Company, LLC (U 933-E)<sup>1</sup> (“CalPeco”) hereby submit the following joint comments addressing issues in the ALJ Ruling.

**I. Introduction and Background**

BVES is a small electric utility in the Big Bear Lake recreational area of the San Bernardino Mountains that provides electric distribution service to approximately 21,900 residential customers in a resort community with a mix of approximately 40% full-time and 60% part-time residents. Its service area also includes about 1,400 commercial, industrial and public-authority customers, including two ski resorts. BVES’ service territory is connected to the California Independent System Operator (“CAISO”) via Southern California Edison under a

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<sup>1</sup> CalPeco also does business in California as “Liberty Energy-California Pacific Electric Company, LLC.” CalPeco has authorized BVES to submit this filing on its behalf.

Wholesale Distribution Access Tariff (“WDAT”).

CalPeco is an investor-owned electric utility that serves approximately 46,000 customers in the Lake Tahoe area of California. CalPeco has limited electrical connections with the rest of California and is not a part of the electrical grid controlled by the CAISO. Instead, CalPeco is included in NV Energy’s multi-state balancing authority area, which is subject to Western Electricity Coordinating Council (“WECC”) reliability standards. CalPeco currently procures all of its RPS requirements from out-of-state resources through a single power purchase agreement with NV Energy.

Both BVES and CalPeco have relatively small customer bases when compared to California’s largest investor-owned utilities (“IOUs”) and the intricacies of the RPS program and its associated reporting and compliance requirements result in a disproportionately larger administrative burden on a per customer basis than is realized by California’s largest IOUs. For example, as a smaller utility, BVES currently only has 48 employees and approximately 23,000 customers. Compared to Southern California Edison Company’s (“SCE”) 4.91 million customers and 18,230 employees,<sup>2</sup> BVES has approximately 0.3% of the workforce to complete the same reports and 0.5% of the customer base from which to recover these administrative costs when compared to SCE. The Commission should recognize the disproportionate impact duplicative reporting requirements may cause and should strive to make RPS reporting as simple and straightforward as possible.

The Legislature, when enacting California’s RPS bill, Senate Bill No. 2 of the California Legislature’s 2011 First Extraordinary Session (“SB 2 (1X)”), and the California Public Utilities Commission (“Commission” or “CPUC”), when interpreting and implementing SB 2 (1X), have

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<sup>2</sup> These numbers are based on SCE’s 2010 Financial & Statistical Report.

recognized these unique characteristics of BVES and CalPeco. Sections 399.17 and 399.18 of SB 2 (1X) lay out the unique RPS requirements that apply to BVES and CalPeco. These requirements differ from the requirements of other California retail sellers and any new RPS reporting requirements or reporting templates adopted by the Commission should reflect these differences. BVES and CalPeco recommend that any requirements for RPS reporting implemented for them should adhere to the following guidelines:

- Only one RPS procurement report needs to be submitted annually on October 1<sup>st</sup> ;
  - “Progress” reports would be submitted for intervening years and “compliance” reports would be submitted after a compliance period;
- RPS reports need not include information related to portfolio content categories in accordance with statutory directives.

These guidelines and recommendations are described in greater detail below.

## **II. Responses to Issues Posed in the ALJ Ruling**

BVES and CalPeco provide the following responses to specific issues posed in the ALJ Ruling.

### **1. Section 399.13(a)(3) requires that each retail seller must submit an annual RPS compliance report.**

- **When should the annual RPS compliance report be submitted? Please consider at least the following in choosing a date for your proposal:**
  - **The information identified by Section 399.13(a)(3) as necessary for the compliance report;**
  - **The RPS reporting and verification requirements of the California Energy Commission;**
  - **Any other reporting or information requirements that may be relevant to the RPS compliance reporting process. Please be specific.**

BVES and CalPeco recommend that the annual RPS report should be due on October 1<sup>st</sup> of each year. This deadline will avoid other compliance deadlines and give retail sellers additional time to retire RECs and report the most accurate procurement information to the

Commission.

A later reporting deadline will also provide retail sellers with additional time to comply with the new 36 month window to retire RECs in the Western Renewable Energy Generation Information System (“WREGIS”) pursuant to Section 399.21(a)(6). As retail sellers have 36 months to retire RECs in WREGIS, additional time may be required before RECs are retired. This is particularly true given the new multi-year compliance periods and fluctuations in retail load. Retail sellers may elect to wait longer to retire RECs in WREGIS to ensure that the RECs can be allocated to the proper WREGIS retirement account and counted towards the appropriate compliance period for three reasons:

1. the moving procurement targets;
2. no enforceable target for intervening years of a compliance period;<sup>3</sup> and
3. the extreme difficulty of unretiring RECs once they are retired.

Additionally, current compliance deadlines support a later RPS reporting deadline. For example, the California Energy Commission (“CEC”), the entity responsible for verifying certain renewable procurement by BVES<sup>4</sup> and CalPeco,<sup>5</sup> has a June 1<sup>st</sup> deadline to report renewable procurement data. Furthermore, procurement from prior years must be retired in WREGIS by June 1<sup>st</sup>.<sup>6</sup> Any reporting deadline should take these deadlines into consideration and fall at a later time so that any data submitted to the CEC can be included in the Commission’s RPS report. Therefore, the Commission should adopt an October 1<sup>st</sup> RPS annual reporting date in order to ensure that WREGIS retirement can be completed and the most recent and accurate renewable

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<sup>3</sup> See D.11-12-020, Conclusion of Law 6.

<sup>4</sup> See Pub. Util. Code § 399.18(b)(2).

<sup>5</sup> See Pub. Util. Code § 399.17(b)(3).

<sup>6</sup> See CEC RPS Eligibility Guidebook, App. A, p. 9, Instructions for Filing a State/Provincial/Voluntary Compliance Report Using WREGIS, available at <http://www.energy.ca.gov/2010publications/CEC-300-2010-007/CEC-300-2010-007-CMF.PDF>.

procurement data can be provided.

- **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.**

As BVES and CalPeco are not subject to the procurement content limitations of Section 399.16,<sup>7</sup> their RPS reports should include information that is similar to the information reported using RPS reporting templates from 2011. Thus, the Commission should continue to use retail seller specific templates for various retail sellers as it has in the past. As BVES and CalPeco are not subject to the procurement content limitations of Section 399.16, there should be no requirement for BVES and CalPeco to classify renewable procurement under one of the three procurement content categories in their compliance reports. Such classification provides no useful benefit to the Commission or to BVES and CalPeco.

**2. 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?**
- **If the information in the progress report should be different from the information in the annual report, please specify and explain your proposal.**

No additional RPS progress reports should be required as the Commission will be able to rely upon the single annual RPS report submitted each year. Any additional reports would be unnecessary and burdensome. SB 2 (1X) only contemplated one annual RPS report and additional requirements should not be imposed above and beyond the statutory requirements.<sup>8</sup> In addition, the purposes and function of the annual RPS report is already to serve as a progress

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<sup>7</sup> See Pub. Util. Code §§ 399.17(b) and 399.18(b). See also D.11-12-052, Ordering Paragraph 16.

<sup>8</sup> See Pub. Util. Code § 399.13(a)(3), “[t]he commission shall direct each retail seller to prepare and submit an annual compliance report...”

report, making additional reports redundant. The Legislature, when enacting SB 2 (1X), intended the annual RPS report to describe the “current status and *progress* made during the prior year toward procurement of eligible renewable energy resources...”<sup>9</sup> Furthermore, the Commission’s determination that “[r]etail sellers should not be required to demonstrate a specific quantity of procurement for any intervening year in a compliance period” highlights the redundancy of any additional reports.<sup>10</sup> If there are no requirements to demonstrate a specific procurement target for an intervening year, any report for that year can only serve as a progress report. Accordingly, the Commission should avoid imposing significant administrative burdens on retail sellers and should not require a redundant and unnecessary additional RPS progress report.

**3. 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?**

- **If not, please explain why not and identify how the Commission would receive information about the retail seller’s attainment of the procurement requirements for a compliance period, as required by Section 399.15(b), as implemented by D.11-12-020.**
- **If yes,**
  - **When should such a report be submitted? (For example, March 1 of the year following the end of the compliance period; for the first compliance period, that would be March 1, 2014.)**
  - **How should such a report present the quantities of the retail seller’s RPS procurement for the compliance period?**

A separate compliance report should not be required for an entire compliance period. The annual RPS report should function as the compliance report for the year after the end of a compliance period and a “progress” report in intervening years. Differing treatment of the

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<sup>9</sup> Pub. Util. Code § 399.13(a)(3)(A), emphasis added.

<sup>10</sup> D.11-12-020, Conclusion of Law 6.

annual reports in compliance years versus intervening years does not make multiple filings in a single year necessary.

Such a duplicative requirement would provide virtually no benefit while significantly increasing the administrative burdens of completing the report, particularly for smaller retail sellers like BVES and CalPeco. Therefore, BVES and CalPeco suggest that the annual RPS report required by the Commission be designed to provide sufficient information to analyze a retail seller's compliance with the renewable procurement targets for a compliance period. Rather than increasing costs and reporting efforts, the Commission could simply modify the title of a report as needed.

**4. Section 399.16(c) sets minimum percentages for procurement that meets the criteria of Section 399.16(b)(1) in each compliance period, as well as maximum percentages for procurement that meets the criteria of Section 399.16(b)(3) in each compliance period.**

- **Should the percentage requirements for procurement meeting the specified criteria be applied:**
  - **Annually?**
  - **For each compliance period as a whole?**
  - **Over some other time period?**

As BVES and CalPeco are not subject to the procurement content limitations of Section 399.16, they offer no comment on this issue apart from the recommendation that any reporting template for BVES or CalPeco should not include any information relating to procurement content categories or percentage requirements related to those categories.

**5. Should the Commission require a particular format or time at which a “retail seller may apply to the Commission for a reduction of a procurement content requirement of subdivision [399.16](c),” in accordance with Section 399.16(e)?**

- **If yes, please explain and provide a justification for the proposal.**
- **If no, please explain how retail sellers would inform the Commission of a request under Section 399.16(e).**



BVES and CalPeco are not subject to the procurement content limitations of Section 399.16, and will therefore not need to “apply for a reduction of a procurement content requirement.”

**6. How should the relationship between the minimum percentage requirement for procurement meeting the criteria of Section 399.16(c)(1) and the procurement quantity requirements for a compliance period be interpreted? Please discuss at least the following example:**

*A retail seller meets the RPS procurement quantity requirement of an average of 20 percent of its retail sales for the compliance period 2011-2013. During that compliance period, an average of 45 percent of the retail seller’s RPS procurement associated with contracts executed after June 1, 2010, is from procurement meeting the criteria of Section 399.16(c)(1).*

As BVES and CalPeco are not subject to the procurement content limitations of Section 399.16, they provide no comment on this issue.

**7. In D.11-12-052, the Commission noted that “some rules for the use of unbundled RECs set forth in D.10-03-021, as modified by D.11-01-025, are not affected by new § 399.16 and continue in force.” (D.11-12-052 at 55). Two of the rules prohibit the unbundling of RECs from contracts that have been “earmarked” to apply to a shortfall in a retail seller’s annual procurement target.**

- **How, if at all, should the prohibition on unbundling RECs from earmarked contracts now be applied to contracts for RPS procurement:**
  - that were executed prior to June 1, 2010?
  - that were executed prior to January 1, 2011?
- **How should the compliance reports required by Section 399.13(a)(3) account for the unbundling of RECs from previously earmarked contracts?**

BVES and CalPeco provide no comment on this issue at this time.

### **III. Conclusion**

For the reasons described in these comments, the Commission should continue to recognize the unique characteristics and statutory requirements applicable to BVES and CalPeco and should implement the RPS reporting requirements for these utilities accordingly. Reporting

templates should be customized to reflect the individual characteristics and requirements for different retail sellers, including BVES and CalPeco, and should be due annually on October 1<sup>st</sup>. BVES and CalPeco should only have to report information on retail load and renewable procurement in the RPS reports, but not information related to procurement content categories as BVES and CalPeco are statutorily exempted from such requirements.

Dated: February 10, 2012

Respectfully submitted,

/s/

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## VERIFICATION

I am the attorney for Bear Valley Electric Service (“BVES”), a division of Golden State Water Company; BVES is absent from the County of Sacramento, California, where I have my office, and I make this verification for that reason. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information and 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.

Executed on February 10, 2012 at Sacramento, California.

/s/

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Attorneys for Bear Valley Electric Service

## VERIFICATION

I am the Vice President, Commodity Procurement for Liberty Energy Utilities Co. and am authorized to make this verification on behalf of California Pacific Electric Company, LLC.

I am informed and believe that the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information and 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.

Executed on February 10, 2012 at Oakville, Ontario, Canada.

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/s/

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