

**I. Key CPUC Decisions that determined that REC ownership would remain with the owner of a solar project.**

- CPUC Decision 05-05-011<sup>1</sup>: The Renewable DG Owner Owns the RECs

D.05-05-011 (May 5, 2005) established that the owner of the renewable distributed generation (DG) facility owns the renewable energy credits (RECs) associated with the generation of electricity from that facility (Ordering Paragraph 2).

Various parties raised issues about how subsidy payments for DG facilities should be taken into account. The decision acknowledges that subsidy and measurement issues need to be resolved in order to determine how RECs from renewable DG can be counted for Renewable Portfolio Standards (RPS) program purposes. However, the Commission determined that these issues would be addressed subsequently in the DG OIR.

- CPUC Decision 07-01-018<sup>2</sup>: Subsidy Payments and NEM Participation Do Not Reduce Renewable DG Owner RECs

In a ruling (R. 06-03-004), dated July 12, 2006, the Commission solicited comments on: 1) how to calculate the ratepayers' share of DG RECs to fairly reflect the subsidies they have paid to DG projects; and 2) how to measure a DG project's output with sufficient accuracy to support the use of the output for RPS purposes.

Both utilities and solar parties were generally against apportioning the REC benefits between ratepayers and DG owners. However, they were sharply divided about who should receive the RECs. The parties were also divided about whether NEM should be treated as a subsidy like CSI and SGIP. Parties in favor of REC transfer to ratepayers argued that ratepayers should not be required to "pay twice" for the renewable benefits – once via a subsidy and then again to purchase for RPS purposes. Those supporting DG owner retention of RECs argued that incentives covered only a small portion of the costs of the system, that there are benefits to ratepayers of renewable DG even without the transfer of RECs, etc. (See D.07-01-018, pages 7-15.)

In D.07-01-018 the Commission determined that it "should allow all renewable DG system owners to retain the RECs produced by their facilities irrespective of whether or not they receive ratepayer funding from programs such as CSI, SGIP, or net metering" (Ordering Paragraph 3).<sup>3</sup>

<sup>1</sup> [http://docs.cpuc.ca.gov/word\\_pdf/FINAL\\_DECISION/46213.pdf](http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/46213.pdf)

<sup>2</sup> [http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/63678.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/63678.PDF)

<sup>3</sup>The Commission found that transferring RECs to ratepayers from renewable DG owners receiving subsidies would "run afoul" of Commission policy to encourage installation of additional renewable DG facilities. (See p. 19, citing D.02-10-062<sup>3</sup>, p. 21.) The Commission did, however, indicate that it "should consider reducing renewable DG incentives, if the pace of market development indicates that that [sic] fewer direct incentives, such as those provided under the CSI and SGIP are warranted." (Conclusion of Law 5.)

Instead of acting on metering requirements for REC counting for renewable DG, the Commission determined metering requirements might need to be revisited when the Commission authorizes unbundled RECs to be applied toward RPS. (Ordering Paragraph 7).

- CPUC Decision 11-06-016<sup>4</sup>: Many Issues Need To Be Addressed Before Customers Will Receive Payment For RECs from NEM Net Surplus Generation

Assembly Bill (AB) 920 created a new program for compensation of net surplus generation by NEM customers and in D.11-06-016, the Commission established the net surplus compensation rate including provisions covering REC payments. RECs were included because one part of this statute allows for payment for RECs associated with the net surplus generation and provides that the utility can count such RECs toward their RPS requirements. However, the Commission noted a variety of issues associated with RPS credit for onsite generation. These include CEC eligibility, metering, tracking of credits through the WREGIS system, whether small RECs can be split, and whether customers need to verify that they have not conveyed the RECs to someone else.

The decision left to the CEC to determine the eligibility of net energy metering customer facilities for the RPS and an ownership verification and tracking system for RECs created by net surplus generators (Ordering Paragraph 2) and provided that, prior to paying a NEM customer for RECs, the utilities are required to obtain “certification of renewable energy credit ownership” from the customer (Ordering Paragraph 8). This was in response to concerns raised in the proceeding that many NEM customers leasing their solar equipment or purchasing power under a PPA, do not actually own the RECs associated with their generation since the customers’ contracts with their solar vendors often retain REC ownership with the vendor.

The CEC is about to approve a Revised Guidebook relative to RPS eligibility for RECs from in-state DG projects addressing some but not all of these issues. See below for additional details.

## **II. How RECs are treated with respect to current RPS compliance requirements.**

SB 2 (1X)<sup>5</sup> eliminated electricity delivery as a requirement for RPS eligibility. Pursuant to SB2 (1X), unbundled RECs (i.e., RECs that are separated from the RPS-eligible energy with which it was originally associated), from anywhere in the WECC are eligible for RPS compliance, provided the facility from which the RECs are created is certified by the CEC as an eligible renewable resource. However, there is a limit on the amount of unbundled RECs an LSE can use in any given RPS compliance period that is increasingly stringent in each subsequent compliance period.

<sup>4</sup> [http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/137431.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/137431.PDF)

<sup>5</sup> [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0001-050/sbx1\\_2\\_bill\\_20110412\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0001-050/sbx1_2_bill_20110412_chaptered.pdf)

To comply with the RPS procurement requirements under SB 2 (1x), electricity products from eligible renewable energy resources must be procured from one of three “portfolio content” categories or “Buckets”. As discussed below, the CPUC classified unbundled RECs from in-state renewable DG as a “Bucket 3”<sup>6</sup> product. Accordingly, the use of DG RECs towards an LSE’s compliance obligation is statutorily limited. An LSE’s incremental RPS-eligible procurement (i.e., procurement from RPS contracts or ownership agreements signed by an LSE after June 1, 2010) must not exceed the following percentages in each compliance period:

- First Compliance Period (2011-2013) - 25%
- Second Compliance Period (2014-2016) - 15%
- Third Compliance Period (2017-2020) and thereafter - 10%

CPUC D. 11-12-052<sup>7</sup> addresses the inclusion of RECs from a DG system into the RPS program as a portfolio content 399.16 (b) (3) (i.e., “Bucket 3”) product. Whether customer DG RECs located inside a California Balancing Authority Area are “Bucket 1” or “Bucket 3” products was a contentious issue before the CPUC in the proceeding. The CPUC supported the decision to classify RPS-certified DG facility as Bucket 3 by drawing a distinction between (1) on-site use of electricity; and (2) the sale by the system owner of both energy and RECs to a resale seller. The CPUC found that conferring “additional value on the unbundled REC” is not warranted by statute or by Commission decision. See D.11-12-052 at 28-35 for a full discussion.

For customer DG RECs to count toward RPS compliance, the CEC must act to revise its Renewable Portfolio Standard Eligibility Guidebook (“Draft Revised Guidebook”) which would establish processes to allow the eligibility of renewable distributed generation facilities for the RPS. The Draft Revised Guidebook is on the CEC Agenda for the May 9 business meeting. The Draft Revised Guidebook would not exclude a facility’s participation in a ratepayer funded incentive program (for example, CSI or New Solar Homes Partnership) or net metering in order to apply for RPS certification or precertification. However, the renewable facility that serves onsite load must meet the following eligibility requirements: (1) small facility aggregation; (2) participation in WREGIS; and (3) reporting eligible generation based upon a meter with an independently verified rating of 2 percent or higher. The CEC chose not to relax any of these requirements for the conveyance of RECs, although they may affect the practical ability of small projects to sell their RECs, or for their output to qualify for RPS payments

<sup>6</sup> **Bucket 1** generation must be a bundled product [energy + renewable energy credits (RECs)], and meet one of the following criteria (1) First point of interconnection to WECC transmission grid within the boundaries of a California balancing authority (CBA) or (2) First point of interconnection to a distribution system used to serve end user customers within the boundaries of a CBA; or (3) Scheduled into a CBA (hourly) (4) or Scheduled into a CBA pursuant to a dynamic transfer agreement between a non-CBA balancing authority and a CBA. **Bucket 2** generation is firmed and shaped with substitute electricity scheduled into a CBA within the same calendar year as the RPS-eligible generation. **Bucket 3**—Generation is comprised of: any unbundled REC associated with generation eligible under the California RPS; or any product or fraction of a product otherwise not eligible for Bucket 1 or Bucket 2

<sup>7</sup> [http://docs.cpuc.ca.gov/WORD\\_PDF/FINAL\\_DECISION/156060.PDF](http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/156060.PDF)

for net surplus generation purchased under AB 920. See Draft Revised Guidebook at 71-72. Please note that the Revised Guidebook is subject to stakeholder comment and revisions are possible before the next edition is adopted.

**III. What might be the most appropriate procedural mechanism, should the Commission wish to consider alternative approaches to REC ownership.**

The answer depends on the specific question. One issue is when customers with net energy metering (NEM) net surplus generation will qualify for higher payments for their renewable attributes, as well as whether such output will count toward the utilities RPS targets. Although the AB 920 payment issues were considered in a set of consolidated Applications, those dockets are now closed. The CPUC could add these issues to its list of matters to be considered in the Distributed Generation/California Solar Initiative OIR, R.10-05-004. This rulemaking is the latest in a series of rulemakings opened by the Commission focusing on developing DG technologies and associated policies and rules arising as DG programs grow and transform over time. The Commission has scoped this current proceeding into 3 phases, and has issued decisions on the matters considered in Phase 1, which dealt primarily with SGIP and Virtual Net Energy Metering (VNEM).

The second and third phases are being jointly addressed and include various CSI program issues and reporting, as well as the definition of the 5% NEM cap.

During the course of this proceeding the Commission also added additional issues not previously identified as part of Phase II/Phase III. This is one possible procedural vehicle for addressing remaining AB 920 DG REC issues.

Other REC purchase issues might logically belong in the RPS docket, depending on the issue. For example, an evaluation of when or whether utilities should offer to buy RECs from the owners of small rooftop systems and what prices for such RECs would be reasonable might be taken up in that docket. Other issues, such as whether projects must have meters accurate to within 2% or 5%, are currently assigned to the CEC for resolution. Some small rooftop systems do not have output meters capable of meeting the current CEC meter accuracy requirements.