

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue
Implementation and Administration of
California Renewables Portfolio Standard
Program.

R.11-05-005

**OPENING COMMENTS OF SHELL ENERGY
NORTH AMERICA (US), L.P. ON PRESIDING
JUDGE SIMON'S APRIL 24 PROPOSED DECISION**

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Date: May 14, 2012

SUBJECT INDEX OF
RECOMMENDED CHANGES TO THE PROPOSED DECISION

1. Clarify that an LSE may use eligible pre-June 1, 2010 contract quantities to meet both its overall RPS procurement obligation in a compliance period and its portfolio content category requirements in a compliance period.

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In accordance with Rule 14.3 of the Commission's Rules, Shell Energy North America (US), L.P. ("Shell Energy") files its opening comments on Presiding Judge Simon's April 24, 2012 proposed decision ("PD"). In general, Shell Energy supports the PD's recommendations. Shell Energy seeks clarification, however, respecting the treatment of pre-June 1, 2010 contracts in order to "preserve the value" of these contracts for retail sellers and ratepayers.

Specifically, the Commission should clarify that "count in full" under P.U. Code Section 399.16(d) means that an LSE may use an eligible pre-June 1, 2010 contract to meet its overall RPS procurement obligation in a compliance period under P.U. Code Section 399.15(b)(2)(B), and to satisfy any portfolio content category obligation (including a Category 1 obligation) under P.U. Code Section 399.16(c).¹

In support of its opening comments, Shell Energy states the following:

¹ An Appendix provides proposed conclusions of law and ordering paragraphs.

I.

INTRODUCTION

In D.11-12-052 (December 15, 2011), the Commission determined that pre-June 1, 2010 RPS contracts “meeting the conditions set out in [P.U. Code Section 399.16(d)] may be counted for compliance with the California [RPS] without regard to the quantitative requirements for the use of each portfolio content category established by [P.U. Code Section 399.16(d)]” Decision at p. 82, Ordering Paragraph No. 17. The PD recommends that the Commission confirm that P.U. Code Section 399.16(d) “allows procurement from contracts signed prior to June 1, 2010 to count for RPS compliance without regard to portfolio content category or minimum or maximum quantity requirements for procurement meeting the requirements of P.U. Code Section 399.16(b)(1) or Section 399.16(b)(3), respectively.” PD at p. 27.

The PD is clear that procurement from eligible pre-June 1, 2010 contracts may be used to meet an LSE’s overall RPS procurement requirement in any RPS compliance period. See PD at pp. 26-27. Shell Energy seeks a clarification to ensure that procurement from eligible pre-June 1, 2010 contracts may be used by an LSE to satisfy any portfolio content category as the LSE meets its RPS procurement obligation in an RPS compliance period.

In proposed Conclusion of Law No. 11 (p. 79), the PD states that “[i]n order to conform to statutory requirements and preserve value for retail sellers and ratepayers, retail sellers should be allowed to use contracts signed prior to June 1, 2010 for all compliance purposes, so long as the contracts conformed to all applicable RPS requirements at the time they were signed” Emphasis added. Shell seeks clarification to ensure that “all compliance purpose” means both the LSE’s overall RPS procurement obligation (i.e., average of 20 percent of retail sales in the first compliance period), and the LSE’s obligation to satisfy the minimum and maximum portfolio content categories (i.e. Category 1) in each RPS compliance period.

II.

**A PRE-JUNE 1, 2010 CONTRACT IS
ELIGIBLE TO BE USED “FOR
ALL COMPLIANCE PURPOSES”**

The PD states that “the broad scope of Section 399.16(d) operates to preserve the value for RPS compliance of procurement from contracts signed prior to June 1, 2010.” PD at p. 31. In order to “preserve the value” of a contract entered into prior to June 1, 2010, the contract must be able to be used to meet the LSE’s highest value RPS procurement obligation. This means that a pre-June 1, 2010 contract must be available to be used to satisfy an LSE’s Category 1 obligation, as well as its overall RPS procurement obligation. Because an LSE’s pre-June 1, 2010 contract was fully eligible for RPS compliance before SBX1 2, the contract must be fully eligible for RPS compliance (i.e., Category 1) during any RPS compliance period under SBX1 2.

In order to give effect to the words “count in full,” “preserve the value,” and “for all compliance purposes,” an LSE should be allowed to use eligible pre-June 1, 2010 contracts to meet both its overall RPS procurement requirement and the portfolio content category requirements.

An example follows:

<u>Assume:</u>	LSE RPS compliance obligation	=	100 MW
	Eligible pre-June 1, 2010 contracts	=	60 MW
	Category 1 minimum requirement	=	50 MW
	Category 3 maximum quantity	=	25 MW

If the LSE is permitted to use eligible pre-June 1, 2010 contract quantities “for all compliance purposes,” the LSE should be allowed to use 50 MW out of the 60 MW of pre-June 1, 2010 contract quantities to meet its minimum procurement requirement for Category 1. This approach is consistent with P.U. Code Section 399.16(d) and with the language of the PD.

Shell Energy seeks to clarify that the PD does not mean that an LSE may only use eligible pre-June 1, 2010 contract quantities to meet its overall RPS procurement obligation for an RPS compliance period. Using the same example:

<u>Assume:</u>	LSE RPS compliance obligation	=	100 MW
	Eligible pre-June 1, 2010 contracts	=	60 MW
	Remaining RPS compliance obligation	=	40 MW

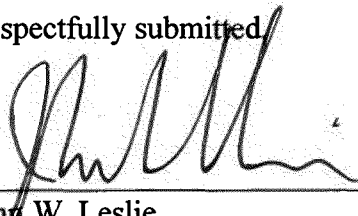
If the PD were to mean that the pre-June 1, 2010 contract may only satisfy the overall RPS procurement obligation, the LSE would have to purchase at least 20 MW of Category 1 RPS supplies to meet its RPS obligation for that compliance period. This approach would not preserve the value of an LSE's pre-June 1, 2010 contracts.

III.

CONCLUSION

Shell Energy requests that the Commission clarify the PD to provide that eligible pre-June 1, 2010 contracts may be used by an LSE both to meet the LSE's overall RPS procurement obligation in a compliance period and to satisfy its procurement obligation in any portfolio content category under P.U. Code Section 399.16(d).

Respectfully submitted,



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APPENDIX

PROPOSED REVISED CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS

A. Conclusions of law (COL):

1. Amend COL No. 11 to insert, on the third line, after “all compliance purposes,” the following: “including the use of such contracts to meet their overall RPS procurement obligation and to meet their portfolio content category obligation,”

B. Ordering Paragraphs (OP):

2. Amend OP No. 10 to insert, on the third line, after “all compliance purposes,” the following: “including the use of such contracts to meet their overall RPS procurement obligation and to meet their portfolio content category obligation,”

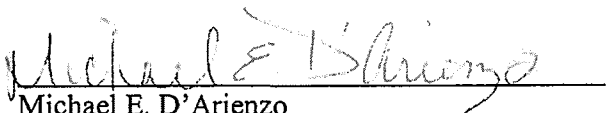
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VERIFICATION

I am an officer of Shell Energy North America (US), L.P. and am authorized to make this verification on its behalf. The statements in the foregoing document 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.

Executed on May 14, 2012, at San Diego, CA


Michael E. D'Arienzo
Vice President – Commercial, Industrial & Aggregators
Shell Energy North America (US), L.P.

State