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, CALIFORNIA PACIFIC ELECTRIC COMPANY, LLC (U 933 E), AND PACIFICORP (U 901 E) ON SECOND ASSIGNED COMMISSIONER'S RULING ISSUING PROCUREMENT REFORM PROPOSALS AND ESTABLISHING A SCHEDULE FOR COMMENTS ON PROPOSALS

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Pursuant to the October 5, 2012 Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals and Establishing a Schedule for Comments on Proposals ("ACR"), the November 6, 2012 extension of time granted by Administrative Law Judge Simon, and Rule 1.8(d) of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), Bear Valley Electric Service ("BVES"), a division of Golden State Water Company, California Pacific Electric Company, LLC ("CalPeco")[1] and PacifiCorp, d.b.a. Pacific Power ("PacifiCorp") (jointly, the California Association of Small and Multi-Jurisdictional Utilities ("CASMU")) respectfully submit the following joint comments on various procurement reform proposals included in the ACR.[2] CASMU notes that the ACR primarily focuses on California's three largest investor-owned utilities ("IOUs") and includes proposals that are specifically tailored around those IOUs.

[1] CalPeco also does business in California as "Liberty Energy-California Pacific Electric Company, LLC."

[2] Pursuant to Rule 1.8(d), BVES has been authorized to tender these joint comments on behalf of CalPeco and PacifiCorp.

As California's three largest IOUs serve most of California's electric load, it is understandable that the ACR focuses on the three largest IOUs. It is thus further understandable that many of the proposals directed to the three largest IOUs do not recognize that CASMU members conduct their renewables portfolio standard ("RPS") procurement using different processes.

Therefore, as described in greater detail below, due to the CASMU members' relatively small sizes, unique characteristics, and different RPS requirements and procurement practices, the Commission must ensure that any new RPS proposals that are adopted do not apply a "one-size-fits-all" approach for IOUs. It should rather continue to recognize the unique characteristics and RPS procurement processes of small IOUs like BVES and CalPeco and multi-jurisdictional utilities like PacifiCorp.[3] In many cases, the Commission should direct that the CASMU members should not be subject to, or should be granted exemptions from, the RPS program proposals the ACR contemplates.

I. Introduction and Background

BVES is a small electric utility in the Big Bear recreational area of the San Bernardino Mountains located about 80 miles east of Los Angeles that provides electric distribution service to approximately 21,500 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'

[3] To this end, it must be noted that Footnote 2 on page 3 of the ACR is inaccurate and improperly implies that all IOUs, with the exception of PacifiCorp, are similar. However, BVES, like PacifiCorp, is also subject to a special legislatively created category. BVES is subject to unique RPS requirements pursuant to Pub. Util. Code Section 399.18. Additionally, the footnote fails to recognize that California Pacific Electric Company is also in a special legislatively created category pursuant to Pub. Util. Code Section 399.17.

service territory is connected to the California Independent System Operator ("CAISO") via Southern California Edison Company's ("SCE's") system.

CalPeco is a small electric utility that serves approximately 49,000 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 and thus it 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.[4]

PacifiCorp is a multi-jurisdictional electric utility ("MJU") with approximately 1.7 million customers in California, Idaho, Oregon, Utah, Washington and Wyoming. Approximately 45,000 of those customers are located in Shasta, Modoc, Siskiyou and Del Norte counties in Northern California, representing less than two percent of the total retail load served across PacifiCorp's six-state system. PacifiCorp's California service territory is not included in the CAISO balancing authority area, but rather PacifiCorp is the balancing authority for its California service territory, which is operated on an integrated basis with other states in the western portion of its multi-state territory.

While IOUs, the CASMU members each differ significantly from the three largest IOUs in California: SCE, Pacific Gas and Electric Company ("PG&E"), and San Diego Gas & Electric Company ("SDG&E"). These three companies are mega-utilities, serving more customers in California than the CASMU members by orders of magnitude. This disparity in size is evident in the allocation of each participating utility's proportionate share of capacity for the public

[4] *See* D.10-10-017, p. 61 (Ordering Paragraph 15).

water and wastewater program. The three largest utilities have been assigned 99.401% of the statewide total generating capacity for these facilities. In contrast BVES' obligation was only 0.031%, CalPeco's obligation was 0.162%, and PacifiCorp's obligation was only 0.405%.[5] Due to the CASMU members' relatively small size, administrative costs have a disproportionate impact on their customers compared to California's three largest IOUs.

II. Based on the CASMU Members' Relatively Small Size, Unique Characteristics and Distinct RPS Requirements, Any Proposals Ultimately Adopted by the Commission Must Clearly Differentiate Between the CASMU Members and the Three Largest IOUs

A. The Commission Should Continue to Recognize BVES' Unique Characteristics

The Commission has historically and should continue to recognize the unique characteristics of and requirements that apply to BVES. As described above, BVES has a relatively small customer base when compared to California's three largest IOUs and the intricacies of the RPS program and any associated reporting and compliance requirements result in a disproportionately larger administrative burden on a per customer basis than is realized by California's three largest IOUs. For example, as a smaller utility, BVES currently only has less than 50 employees and approximately 23,000 customers. Compared to SCE's 4.91 million customers and 18,230 employees,[6] BVES has approximately 0.3% of the workforce to meet the same RPS requirements and 0.5% of the customer base from which to recover these administrative costs when compared to SCE. This disparity in size necessitates that any efforts to comply with identical RPS obligations will have a significantly greater rate impact for BVES'

[5] D.07-07-027, p. 9.

[6] These numbers are based on SCE's 2010 Financial & Statistical Report.

customers than customers of the three large IOUs.

The Commission has also recognized the disproportionate impact certain reporting and compliance requirements may cause for small utilities like BVES and has made efforts to minimize reporting and compliance requirements where possible. The April 5, 2012 Assigned Commissioner's Ruling Identifying Issues and Schedule of Review for 2012 Renewables Portfolio Standard Procurement Plans Pursuant to Public Utilities Code Sections 399.11 et seq. and Requesting Comments on new Proposals ("April 5, 2012 ACR") found that BVES' RPS procurement plan "should be tailored to the limited customer base and the limited resources of a small utility."[7] Accordingly, the Commission determined that BVES need only address 4 of the 10 sections of the April 5, 2012 ACR in its RPS procurement plan and that it was "not required to provide the quantitative information described by section 6.5."[8] Additionally, BVES is not required to submit a renewable net short calculation in its RPS Procurement Plan.[9]

In addition to the size disparity between BVES and California's three large IOUs that results in disproportionately larger impacts for BVES' ratepayers, the California Public Utilities Code and BVES' exemption from certain RPS requirements also necessitate that RPS compliance is different for BVES. Section 399.18 of the Public Utilities Code allows BVES to meet its RPS procurement requirements "notwithstanding any procurement content limitation in

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[7] April 5, 2012 ACR, p. 7.

[8] *Id.*

[9] *See* August 2, 2012 Administrative Law Judge's Ruling (1) Adopting Renewable Net Short Calculation Methodology (2) Incorporating the Attached Methodology Into the Record, and (3) Extending the Date for Filing Updates to 2012 Procurement Plans ("August 2, 2012 ALJ Ruling"), p. 2, FN 2 ("…all retail sellers, except small investor-owned utilities, were required to submit net short calculations in their 2012 RPS Procurement Plans."), *see also* August 2, 2012 ALJ Ruling, Attachment 1, Energy Division Staff Proposal, p. 2, FN 5. *See also* April 5, 2012 ACR, p. 7 (BVES is "not required to provide the quantitative information described by section 6.5 in a separate submission…").

Section 399.16."[10] In implementing the Public Utilities Code, the Commission found that BVES is "not subject to the requirements and limitations [on] the use of procurement in each portfolio content category."[11] Accordingly, BVES may meet its entire RPS procurement obligation using procurement from the third Portfolio Content Category (§ 399.16(b)(3)), including unbundled Renewable Energy Credits ("RECs").

As described more fully in BVES' RPS Procurement Plan,[12] BVES will endeavor to take full advantage of RECs to meet its RPS obligations. Because unbundled RECs are likely to be the least expensive of the Portfolio Content Category products, with lower costs to ratepayers, it makes sense for BVES to procure unbundled RECs to meet its RPS targets. Procuring RECs is not only cheaper, but easier, as delivery requirements for RECs are much easier to satisfy and transmission and distribution constraints do not play a factor in the delivery of RECs. BVES' strategy should make it easier for BVES to meet its RPS procurement requirements going forward and should also make any transmission or RPS-related planning much simpler.

It must also be noted that BVES is not a respondent in many proceedings contemplated by some of the proposals in the ACR and does not utilize similar processes for the review and approval of RPS procurement as California's three largest IOUs. For example, the Commission's Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans ("LTPP OIR") applies to PG&E, SDG&E, and SCE, but not to BVES.[13] Additionally, until this year, the Commission did not review BVES'

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[10] Pub. Util. Code § 399.18(b).

[11] D.11-12-052, p. 63; *see also* D.11-12-052, Ordering Paragraph 16.

[12] BVES' RPS Procurement Plan is available at http://docs.cpuc.ca.gov/efile/RESP/167271.pdf.

[13] *See* the March 27, 2012 OIR in R.12-03-014, p. 3, FN 10.

renewable procurement in connection with BVES RPS procurement plan.[14] In fact, BVES was not required to submit a procurement plan until this year. The Commission previously concluded:

> It is not fair and not necessary for any RPS administrative purpose to require the two small utilities [BVES and Mountain Utilities] to file the complex annual procurement plans we require of the large utilities. They may undertake their RPS procurement planning in any way that comports with their general planning processes.[15]

Similarly, the new procurement planning process for BVES is much simpler than it is for the three largest IOUs. Indeed, the April 5, 2012 ACR describes how certain RPS requirements are only required for PG&E, SCE, and SDG&E, while BVES is only "subject to a subset of these requirements."[16] BVES is also not explicitly required to utilize Commission-mandated least-cost best-fit ("LCBF") criteria when evaluating RPS bids and is not obligated to utilize the Commission's project viability calculator when assessing potential renewable resources.[17]

For these reasons, a uniform RPS procurement process will not accurately account for the unique characteristics of BVES. Therefore, as many of the proposals in the ACR are tailored to California's three largest IOUs, the Commission should exempt BVES from any requirement to comply with any adopted proposals to avoid imposing inappropriate obligations on BVES that do not reflect its unique characteristics. Alternatively, if the Commission does determine that adopted new proposals will apply to BVES, the new proposals must be properly tailored to account for BVES' distinctive traits. BVES' specific comments on the ACR proposals are

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[14] *See* D.11-04-030.

[15] D.08-05-029, p. 17.

[16] April 5, 2012 ACR, p. 5.

[17] D.04-07-029, which established the LCBF methodology, only applies to California's largest IOUs. Additionally, both the RPS Quarterly Report and the Project Viability Calculator only address California's large IOUs and do not address and are inapplicable to BVES.

described more fully below.

B. The Commission Should Continue to Recognize CalPeco's Unique Characteristics

As mentioned previously, CalPeco is outside of the CAISO balancing authority, and is rather a participant in the NV Energy balancing authority. In addition, CalPeco currently procures all of its RPS requirements from out-of-state resources through a single power purchase agreement with NV Energy. Thus, and as described in its RPS Procurement Plan, CalPeco need not engage in the more complicated RPS procurement processes utilized by the three large IOUs and which the ACR is seeking to address. As detailed further below, in most instances the Commission should exempt CalPeco from the specific requirements proposed by the ACR as they simply do not apply to CalPeco's unique characteristics.

The Commission and the State have recognized CalPeco's unique characteristics that necessitate a different manner of RPS compliance for CalPeco. For example, Section 399.17 of the Public Utilities Code allows CalPeco to meet its RPS procurement requirements "notwithstanding any procurement content limitation in Section 399.16."[18] In implementing the Public Utilities Code, the Commission found that CalPeco is "not subject to the requirements and limitations [on] the use of procurement in each portfolio content category."[19] The Commission should continue to recognize CalPeco's unique characteristics and before determining it necessary to impose on CalPeco any RPS-related requirements which this ACR may adopt for the three largest California IOUs, the Commission should specifically assess whether any such proposal takes into account CalPeco's specific characteristics and provides CalPeco's customers

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[18] Pub. Util. Code § 399.17(b).

[19] D.11-12-052, p. 63; *see also* D.11-12-052, Ordering Paragraph 16.

benefits that will indisputably exceed the per customer cost of administration.

C. The Commission Should Continue to Recognize PacifiCorp's Unique Characteristics

The Commission has historically and should continue to recognize the unique characteristics of and requirements that apply to PacifiCorp as the sole electric MJU in California. PacifiCorp's owned generation portfolio is a mix of assets located in nine western states (Arizona, California, Colorado, Idaho, Montana, Oregon, Utah, Washington, and Wyoming). Consistent with long-standing regulatory practice agreed to among the state commissions overseeing PacifiCorp, energy produced by PacifiCorp-owned resources, as well as purchased energy delivered pursuant to power purchase agreements, is referred to as system power. System power is not assigned by PacifiCorp for use within a particular state or area but is managed on a system-wide basis. PacifiCorp combines all of the costs for generating and maintaining the appropriate level of power within the system and allocates proportionate shares of system resources to each jurisdiction based on each state's relative contribution to system capacity and energy requirements. The majority of PacifiCorp's owned renewable resources are eligible for and certified for California's RPS program. The above-described allocation approach is applied to these renewable resources and allocated to California for RPS compliance purposes based on California's proportional capacity and energy requirements – slightly less than two percent of PacifiCorp's system requirements.

The fact that PacifiCorp is an MJU and procures RPS resources on a system-wide basis sets it apart from the other California IOUs. This difference is reflected in statute in Public Utilities Code Section 399.17, which, among other things, allows PacifiCorp to comply with certain RPS procurement requirements by using an integrated resource plan ("IRP").[20] As was clarified in Decision ("D.") 08-05-029 (Decision on Participation of Small and Multi-Jurisdictional Utilities in the Renewables Portfolio Standard Program) ("SMJU Order") and later in D.09-06-050 (Decision Establishing Price Benchmarks and Contract Review Processes for Short-Term and Bilateral Procurement Contracts for Compliance with the California Renewables Portfolio Standard), PacifiCorp may proportionally allocate its system-wide RPS-eligible procurement to its California RPS obligations without signing procurement contracts for RPS-eligible electricity that is specifically for California customers.[21] PacifiCorp only files RPS procurement contracts with the Commission for approval if those contracts are to procure RPS-eligible products exclusively for its California customers, which would then be situs-allocated to California.

The circumstances under which the Commission determined that PacifiCorp need only file RPS procurement contracts for procurement exclusive to California customers have not changed with the passage of Senate Bill 2 (1X).[22] Namely, PacifiCorp uses the same system-wide procurement process and continues to use its IRP in order to satisfy certain RPS procurement planning requirements.[23]

In addition, similar to BVES and CalPeco, PacifiCorp is allowed to meet its RPS procurement requirements "notwithstanding any procurement content limitation in Section

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[20] Pub. Util. Code § 399.17(d) states "An electrical corporation or qualifying successor entity meeting the requirements of subdivision (a) may use an integrated resource plan prepared in compliance with the requirements of another state utility regulatory commission, to fulfill the requirement to prepare a renewable energy procurement plan pursuant to this article, provided the plan meets the requirements of Sections 399.13, 399.14, and 399.25, as modified by this section."

[21] *See* D.09-06-050, pp.25-26; *See also* D.08-05-029, p.23.

[22] Simitian, Stats. 2011, ch.1.

[23] *See, e.g.,* PacifiCorp's 2011 Integrated Resource Plan Off-Year Supplement, Docket R.11-05-005 (July 16, 2012).

399.16."[24] Accordingly, PacifiCorp may also meet its entire RPS procurement obligation using procurement from the third Portfolio Content Category (§ 399.16(b)(3)), including unbundled RECs.

PacifiCorp is also not a respondent in many proceedings contemplated by some of the proposals in the ACR and does not utilize similar processes for the review and approval of RPS procurement as California's three largest IOUs. For example, the Commission's LTPP OIR applies to PG&E, SDG&E, and SCE, but not to PacifiCorp.[25] PacifiCorp is also not explicitly required to utilize Commission-mandated LCBF criteria when evaluating RPS bids and is not obligated to utilize the Commission's project viability calculator when assessing potential renewable resources.[26] For these reasons, the Commission should exempt PacifiCorp from any requirement to comply with any adopted proposals. Alternatively, if the Commission does determine that new proposals will apply to PacifiCorp, the new proposals must be properly tailored to account for PacifiCorp's unique characteristics.

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[24] Pub. Util. Code § 399.17(b).

[25] *See* the March 27, 2012 OIR in R.12-03-014, p. 3, FN 10.

[26] D.04-07-029, which established the LCBF methodology, only applies to California's largest IOUs. Additionally, both the RPS Quarterly Report and the Project Viability Calculator only address California's large IOUs and do not address and are inapplicable to PacifiCorp. *See also* D. 09-06-050 at footnote 32 ("[b]ecause the Commission does not exercise supervisory authority over the multijurisdictional utilities' contracting, the requirements set out in section 3.7 regarding least-cost best-fit and section 3.8 regarding review by procurement review groups and independent evaluators do not apply to PacifiCorp or Sierra").

III. CASMU Comments on ACR Proposals

4.1. Proposal – Standards of Review for IOUs' Shortlists

1. **Provide comments on the strengths and weaknesses of increasing the level of review of IOUs' shortlists. If an alternative review process or review standards are proposed, include justification for the proposal.**

The ACR proposes that IOU shortlists be submitted via a Tier 3, rather than a Tier 2, advice letter allowing for an increased level of review of an IOU's shortlist.[27] Unlike California's three largest IOUs, the CASMU members are not required to submit shortlists for Commission review. Based on the CASMU members' size and unique characteristics, CASMU members should continue to be exempted from any requirement to submit a shortlist for Commission review. CASMU provides no other comments on this proposal at this time.

4.2. Proposal – Establish Date Certain for Request for Commission Approval of Contracts

2. **Discuss the strengths and weaknesses of the proposal to set a time requirement for requesting Commission approval of an RPS contract. What impact will it have on the market, ratepayer, and regulator? If an alternative time requirement is proposed, include a justification for the proposal.**

The ACR proposes "that RPS contracts be executed within one year after the approval of an IOU's shortlist and filed with the Commission for approval within one month from the execution date of the contract."[28] As described above, CASMU members do not submit a shortlist for Commission review or approval so present no opinion on the one year aspect of the proposal.

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[27] ACR pp. 9-10.

[28] ACR, p. 10.

CASMU supports the proposal that, if approval is required, the filing of an executed RPS contract with the Commission for approval must be within one month from the execution date of the contract. Filing an advice letter shortly after contract execution will help expedite the review and approval process for RPS procurement, providing the contract counterparty with regulatory certainty and providing actual procurement certainty to the utility at an earlier date, which will help utilities meet RPS procurement targets. Further, this timeframe is likely to avoid the imposition of price premiums that could be associated with a more lengthy approval process. The proposed schedule, in turn, will provide IOUs greater certainty to go forward with renewable procurement and will ensure that ratepayer expenses are credited towards the RPS program.

Furthermore, by submitting an advice letter shortly after contract execution, the Commission will be able to review the contract based on current trends and pricing, assisting in the reasonableness review and allowing price comparison on a more contemporaneous basis. Adoption of this proposal should also help the market by reducing review and approval times, thereby allowing resources to know on a more timely basis whether they will be able to sell their output to an IOU or not.

Although PacifiCorp is proposing that the requirement to file a contract for approval only applies to RPS contracts that constitute procurement exclusively for PacifiCorp's California customers, PacifiCorp notes that, based on its experience as a wholesale market participant, the market often changes significantly over the course of one year. A more reasonable timeframe for contract execution may be four to six months.

4.3. Proposal – Expedited Review of RPS Purchase and Sales Contracts

A. Purchase & Sales Contracts Less than Five Years in Term Length: This proposal would streamline the review of RPS contracts of lengths of less than five years (<5 years). IOUs would be allowed to request Commission approval of eligible contracts by Tier 1 Advice Letters, as compared to the currently required Tier 3 Advice Letter, if the prerequisites in Table 1, below, are met.

B. Purchase Contracts of Five Years or Greater in Term Length: This proposal would streamline the review of RPS contracts that use commercially proven technologies with contract term lengths five years or greater (≥5 years). IOUs would be allowed to request Commission approval of eligible contracts by Tier 2 Advice Letters, as compared to the currently required Tier 3 Advice Letter process, if the prerequisites in Table 1, below, are met. Since IOUs generally sell excess RPS generation through short-term agreements, sales contracts are not included in this proposal.

Discuss the advantages and disadvantages of each proposed review criterion to the ratepayer, market, and regulator. In your response, please address the questions below.

The proposed review criteria are geared around California's three largest IOUs and are not always applicable to small utilities like BVES and CalPeco or MJUs like PacifiCorp. For example, BVES and CalPeco are not required to calculate or submit a renewable net short calculation, do not utilize an IE, and do not utilize a Procurement Review Group ("PRG"). Similarly, PacifiCorp does not utilize an IE or a PRG. Accordingly, the Commission must ensure that the proposal, if adopted, does not apply to CASMU members. Alternatively, any adopted proposal must be modified to account for the CASMU members' unique characteristics and RPS procurement practices.

3. **The above proposal defines expedited review prerequisites differently for contracts <5 years and those ≥5 years in term length. Comment on the appropriateness of the 5 year term length distinction. If an alternative is proposed, include a justification for the proposal.**

CASMU has no objection to the 5 year distinction.

4. **The above proposal allows for contracts that meet all of the prerequisites to be submitted with Tier 1 and Tier 2 Advice Letters for contracts <5 years in term length and contracts ≥5 years in term length, respectively. Comment on the appropriateness of the designated Advice Letter Tier. If an alternative is proposed, include a justification for the proposal.**

For contracts that are required to be filed for approval by the Commission, CASMU supports the use of Tier 1 and Tier 2 Advice Letters for contracts less than 5 years and greater than or equal to 5 years in term length, respectively. However, as CASMU members differ significantly from California's three largest IOUs, CASMU members should not be required to satisfy the same prerequisites in order to use the Tier 1 and Tier 2 advice letter process.[29]

5. **The above proposals do not apply to sales contracts five years or greater in term length. Is there a market need to extend an expedited approval process to sales contracts five years or greater in term length?**

BVES does not anticipate entering into any sales contracts five years or greater in term length and accordingly provides no comments on this proposal. CalPeco and PacifiCorp provide no comment on this issue at this time.

6. **The above proposal requires contracts using the expedited review process to be selected from competitive solicitations but it also allows bilateral contracts <5 years in term length if they are of equivalent or better net market value than offers from a prior solicitation for similar products. Would a solicitation for short-term transactions be robust enough to adequately benchmark short-term bilateral transaction if the contract is negotiated bilaterally?**

Again, due to the different RPS review and approval requirements applicable to CASMU members when compared to California's three largest IOUs, any proposed requirements ultimately adopted should either not apply to CASMU members or must be tailored to reflect CASMU members' unique characteristics and requirements. For example, BVES believes that based on its ability and its objective to procure only Portfolio Content Category 3 products to meet its RPS targets, the Commission should continue to defer to BVES' preferred internal procurement practices. Since PacifiCorp uses its IRP process to plan for meeting its RPS procurement targets, the Commission should continue to defer to PacifiCorp's IRP and IRP supplements.

7. **The above proposal extends the expedited approval process to contracts greater than five years in term length. Because long-term contracts are primarily for generation from facilities that are not yet operating, viability screens are proposed as prerequisites to reduce RPS portfolio risk for the IOUs and ratepayers. Comment on the strengths and weaknesses of the proposed viability screens.**

The ACR focuses on viability screens used in the RPS Quarterly Report – 3rd Quarter 2011 based on the Energy Division's Project Viability Calculator.[30] However, both the RPS Quarterly Report and the Project Viability Calculator only address California's three largest IOUs and do not address, and are accordingly inapplicable to, CASMU members. Accordingly, any viability screens adopted by the Commission should continue to only apply to California's three largest IOUs. For this reason, CASMU does not address the strengths and weaknesses of the proposed viability screens.

4.4. Proposal – Improve RPS Power Purchase Agreement Standards of Review

Each of the following proposals use proposed standards of review that are tailored to California's three largest IOUs and do not reflect the unique characteristics and requirements applicable to CASMU members. For example, the ACR proposals reference the project viability calculations, and other standards and requirements that CASMU members are not required to

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[29] D.12-06-038 clarified that BVES is now authorized "to use the advice letter process for submitting its RPS procurement contracts…" (D.12-06-038, p. 84; *see also* Ordering Paragraph 33.)
[30] ACR, pp. 14-15.

calculate or provide. In addition, the proposals reference the RPS net short calculation, which BVES and CalPeco are not required to calculate. Therefore, any adopted proposal should clearly exempt CASMU members from having to comply with the new requirements or should be specifically tailored to address CASMU members' unique characteristics and RPS procurement practices.

A. Proposed Standards of Review for Power Purchase Agreements from Solicitations

Discuss the advantages and disadvantages of each proposed review criterion to the ratepayer, market, and regulator. In your response, please address the questions below.

8. The above proposal requires contracts to be consistent with an IOU's net short approved in the most recent Procurement Plan. Propose how this criterion could be applied to an individual contract.

As described above, BVES and CalPeco are not required to calculate a renewable net short. Accordingly, when reviewing BVES' and CalPeco's renewable procurement contracts, consistency with the renewable net short should not be considered.

Through its IRP process, PacifiCorp prepares an assessment of its RPS portfolio needs and compliance and "net short" position in all states that have a renewable portfolio standard. Therefore, the Commission should consider the contract's consistency with PacifiCorp's IRP or IRP Supplement. As an alternative, the Commission could consider consistency with the updated net short calculation included in the most recently filed RPS Compliance Report.

9. Are the proposed cohorts to be used to evaluate the reasonableness of a contract's price, net market value, and viability appropriate? If not, provide an alternative proposal and justification for the alternatives.

Based on BVES' small size as well as its ability to satisfy its entire RPS procurement requirement with Portfolio Content Category 3 products, BVES is unlikely to enter into a large number of renewable contracts, but will instead seek to satisfy its procurement obligations with as few contracts as possible. These contracts will seek to procure unbundled RECs while satisfying other RPS procurement obligations, such as long-term contracting requirements. Additionally, as retired unbundled RECs cannot be carried forward as excess procurement,[31] BVES will strive to procure its exact procurement obligation to avoid stranding RECs and increasing costs to ratepayers. This task is a difficult one, as retail sales numbers can only be predicted and will not be fully known until after a compliance period is over. Therefore, BVES will seek to utilize flexible procurement contracts that allow BVES to procure REC quantities that most accurately align with its most recent forecasts and procurement obligations.

CalPeco is similarly unlikely to enter into a large number of renewable contracts. CalPeco currently receives all of its RPS procurement from one contract with NV Energy. Despite the efforts BVES and CalPeco will make to ensure that their RPS contracts can satisfy all procurement obligations the Commission will require of the three largest IOUs, it is likely not to be cost-effective or otherwise beneficial for BVES or CalPeco to satisfy these requirements to the same precise degree. Accordingly, additional renewable contracts, to the extent necessary, will likely be entered into at the end of compliance periods in order to ensure that RPS targets are satisfied. Thus, contracts may be highly variable in term, quantity, and price.

The ACR's proposal to determine reasonableness of new RPS agreements based on shortlisted bids and all PPAs that were executed in the 12 months prior to contract execution may not provide an adequate basis to fully analyze reasonableness for BVES or CalPeco. Instead, the Commission should consider the totality of the circumstances justifying the need for BVES and

[31] *See* D.12-06-038, p. 50: "Only when the REC has been retired in WREGIS for RPS compliance does it enter into the RPS compliance system. A REC that has been retired for RPS compliance is indeed subject to any applicable prohibition or limitation on being counted as 'excess procurement' that can be applied to the next compliance period."

CalPeco to enter into a renewable contract, taking into account BVES' and CalPeco's unique RPS obligations and RPS procurement practices.

As noted above, PacifiCorp does not file contracts with the Commission, and is currently only required to do so in the event those contracts are for products that will be procured exclusively for PacifiCorp's California customers. However, in the event PacifiCorp does file for approval of an RPS contract, it would be reasonable to use the criteria that PacifiCorp uses to evaluate the reasonableness of contracts consistent with its IRP or IRP Supplement, which includes the most recent net short calculation. As an alternative, the Commission could consider consistency with the updated net short calculation included in the most recently filed RPS Compliance Report.

B. Proposed Standards of Review for Bilateral Power Purchase Agreements

Discuss the advantages and disadvantages of each proposed review criterion to the ratepayer, market, and regulator. In your response, please address the questions below.

10. Are there additional reasons for executing bilateral power purchase agreements outside of the solicitation process other than those stated above (e.g. fleeting opportunity, very high viability, near-term commercial operation date, etc.)? If yes, provide the additional reasons and the justifications for bilateral contacts outside of a solicitation.

As CASMU members' size and associated procurement requirements are relatively small, additional contracts needed to address fluctuations in retail load forecasts are likely to be very small. Hosting a full solicitation for such a small quantity is not practical or efficient and will unnecessarily increase costs to customers. For these reasons, bilateral contracts may be appropriate to help CASMU members most cost-effectively meet their RPS procurement obligations.

In addition, as described above, due to the inability to perfectly forecast retail loads, IOUs will not know their actual RPS procurement obligations until a compliance period has concluded. For this reason, as the end of a compliance period approaches, it may be necessary for all IOUs to procure additional renewable energy to satisfy RPS procurement requirements. To ensure that compliance targets are met, there may not be sufficient time to conduct a full solicitation, so all IOUs may need to enter into a bilateral contract. The bilateral market may also offer limited time opportunities that do not allow for a full request for proposal process.

To ensure that the CASMU members have the requisite flexibility to meet their RPS obligations, CASMU additionally recommends that the Commission authorize the CASMU members to execute bilateral contracts of less than 5 years for Portfolio Content Category 3 products without preapproval where the total contract quantity is less than 25% of the CASMU member's procurement quantity requirement for the compliance period. For PacifiCorp, this would only apply in the event the contract is required to be filed for preapproval. This will provide the CASMU members with the latitude to procure adequate RPS products to ensure compliance with the RPS program if retail loads exceed forecasts or in the event that existing contracts under-deliver.

11. Are the proposed cohorts to be used to evaluate the reasonableness of a contract's price, net market value, and viability appropriate? If not, provide an alternative proposal and justification for the alternatives.

See response to question 9.

12. Are the proposed criteria and standards within the minimum viability requirements appropriate for bilaterally offered projects? If not, provide alternative criteria and standards and justification for the proposal.

See response to question 7.

C. Proposed Standards of Review for Amended Contracts

Discuss the advantages and disadvantages of each proposed review criterion to the ratepayer, market, and regulator. In your response, please address the questions below.

13. **The proposed SOR are for contract amendments that substantially modify a contract. Are additional SOR needed for other types of contract amendments (i.e., contract amendments that do not substantially modify approved contracts) or does review of "contract administration" within the IOUs' Energy Resource and Recovery Account filings encompass all other contract amendment types? If additional SOR are needed, propose alternative or additional SOR and describe the type of contract amendment that they would apply to.**

If a contract amendment does not materially modify a contract, it should fall under "contract administration" and should not require additional standards of review or submission of advice letters or applications. For BVES and CalPeco, the Commission should continue to review non-material contract changes under "contract administration," including minor changes to provide additional flexibility to best ensure that BVES and CalPeco can timely and most cost-effectively procure sufficient RECs from a contract to meet their RPS procurement targets. PacifiCorp proposes the same treatment for any RPS procurement contracts that PacifiCorp is required to file with the Commission for approval.

14. **Are the proposed cohorts to be used to evaluate the reasonableness of a contract's price, net market value, and viability appropriate? If not, provide an alternative proposal and justification for the alternatives.**

See response to question 9.

15. **Should minimum project development milestones (as proposed for the SOR for bilateral contracts) be incorporated into the SOR for amended contracts as a way to ensure only viable projects proceed with contracts, thus decreasing the amount of risk in the IOUs' RPS portfolios? If not, provide alternative SOR that would reduce the risk of IOUs' RPS portfolios.**

See response to question 7.

D. Proposed Standards of Review for Power Purchase Agreements that are Beyond the Scope of the Commission's Advice Letter Process.

Discuss the advantages and disadvantages of each proposed review criterion to the ratepayer, market, and regulator. In your response, please address the questions below.

16. The above proposal proposes that the process by which IOUs must seek Commission approval of RPS contracts be based, in part, on the contracted amount of expected annual generation. Comment on how projects with multiple contracts for total facility capacity and projects with contracts for multiple phases should be treated under the proposal or propose an alternative delineation and justification.

As BVES plans to satisfy its entire RPS procurement obligation using unbundled RECs, delivery, tracking, and verification of those RECs is much simpler, making it less important to evaluate whether the contracted RECs are only one of multiple contracts or from a specific phase of the facility's development. Tracking of these RECs in the Western Renewable Energy Generation Information System ("WREGIS") will sufficiently ensure that no RECs are double counted. Accordingly, approval of BVES' REC-only contracts should utilize the advice letter process and should not require additional standards of review, regardless of whether a facility has multiple contracts for its capacity or is being built in phases. A similar rationale applies to REC-only contracts that PacifiCorp is required to file with the Commission for approval.

CalPeco has no comment on this proposal at this time.

17. Comment on the appropriateness of the requirement that contracts that are expected to provide annually more than one percent of the IOU's total bundled sales in the first full year of deliveries should be filed by application. Provide justification for any alternative proposals.

As noted in the ACR, "Small IOUs are exempt from this requirement due to the high likelihood that all of their RPS contracts will exceed one percent of their total bundled sales."[32]

[32] ACR, p. 30, FN 24.

The same concept applies to PacifiCorp REC-only contracts that are entered into exclusively for PacifiCorp's California customers. In that event, it is likely that an RPS contract will exceed one percent of PacifiCorp's total California bundled sales. Therefore, based on the CASMU members' unique characteristics, the CASMU members support an exemption from this proposal.

18. Are there additional circumstances for which RPS contracts should be submitted by application for Commission approval? For example, if the contract exceeds a certain capacity or it would cause a rate impact above a certain amount the IOU would be required to seek approval with an application. In the proposal, provide a justification and include not only the circumstance(s) but also any limits (e.g., all contracts that cause more than a 0.05 cents/kWh rate increase must be filed by application because that would cause a statistically significant rate increase to the average electric rate in California).

Again, based on CASMU members' unique characteristics and RPS requirements, CASMU members believe that the proposed Tier 1 or Tier 2 advice letter process is appropriate for the review and approval of the CASMU members' RPS procurement that is required to be filed for Commission approval.

19. Are there any items (e.g., contract's net market value or viability score) in addition to the contract terms and conditions that should be part of the public record? Provide a justification.

CASMU does not believe it is necessary to include additional items as part of the public record.

4.5 Proposed Standards of Review for Unbundled Renewable Energy Credits

The ACR proposes that "unbundled REC purchase contracts or PSAs…that do not qualify for expedited approval (Section 4.3) be reviewed for consistency with the renewable net short as approved in the IOU's RPS Procurement Plan, consistency with existing Commission decisions, and the SOR in Table 6."[33] The SOR in Table 6 also repeatedly reference the renewable net short. As previously noted, BVES and CalPeco are not required to submit a renewable net short calculation. This standard of review accordingly cannot be applicable to BVES and CalPeco.

As also previously noted, PacifiCorp provides its renewable net short position as part of its IRP and IRP supplement filings, or includes the net short position in RPS compliance report filings. Therefore, in the event PacifiCorp does file for approval of an RPS contract, it would be reasonable to use the criteria that PacifiCorp uses to evaluate the reasonableness of contracts consistent with its IRP or IRP Supplement, which includes the most recent net short calculation. As an alternative, the Commission could consider consistency with the updated net short calculation included in the most recently filed RPS Compliance Report.

20. Are there any other cohorts that unbundled REC contracts should be compared to? If yes, propose additional appropriate cohorts and the justification for their appropriateness.[34]

When determining price reasonableness, CASMU agrees with the ACR that one reflection of unbundled REC prices can be found based on shortlisted unbundled REC bids from the most recent annual RPS solicitation as well as all unbundled REC contracts that were executed in the 12 months prior to contract execution. Energy brokers can also provide price quotes for unbundled RECs, which could be used as an additional data source to determine price reasonableness.

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[33] ACR, p. 34.

[34] The ACR numbered this question as number 19, repeating the number of an earlier question in the ACR. These comments use a heading format that does not repeat numbers, so ACR questions numbered 19 and higher are numbered in these comments one number greater than originally numbered in the ACR.

It is also important that contract volume, term, firmness of the delivery obligation, price certainty, consequences for a failure to deliver, and flexibility are considered. These characteristics will have an important impact on price. For example, if a renewable facility exceeds generation expectations or contracted volumes for RPS Portfolio Content Category 1 bundled deliveries, the facility may have generated more RECs than were sold as bundled deliveries and may seek to sell its excess as unbundled RECs. These RECs are likely to cost significantly less than a large quantity of unbundled RECs specifically contemplated in a long-term contract. These factors are important to consider when evaluating prices, particularly for the CASMU utilities that can meet their entire RPS obligation using cost-effective unbundled RECs.

21. Are there any criteria in addition to need authorization, consistency with an IOU's renewable net short, consistency with Commission decisions, and price that should be considered by the Energy Division and the Commission when reviewing unbundled REC contracts for reasonableness?

As described above, the CASMU members are not subject to the Portfolio Content Category limitations and can satisfy their entire RPS procurement requirements using Portfolio Content Category 3 unbundled RECs. Thus, for the CASMU members, it is important to consider the differences between REC-only contracts and the different needs of retail sellers to procure unbundled RECs. For instance, when BVES enters into a long-term, REC-only contract to satisfy its entire RPS procurement obligation, that contract will be inherently different than a short-term contract for a much smaller quantity of RECs. Additionally, based on BVES' comparatively small size and associated RPS targets, there are not as many REC-only bids or options for BVES to enter into viable REC-only contracts to meet its procurement needs. The Commission must recognize these factors when assessing BVES' RPS procurement.

22. Is there a methodology that would accurately allow the comparison of unbundled REC contracts to bundled procurement? Please provide a quantitative example.

Due to the additional delivery and locational requirements for bundled procurement, as well as the increasing procurement targets for bundled procurement that apply to most retail sellers, bundled procurement will necessarily be more expensive due to higher demand and more complex delivery processes. Unbundled RECs, on the other hand, are not subject to the same delivery restrictions or demand. Accordingly, BVES and PacifiCorp do not believe it is possible to accurately compare unbundled and bundled procurement.

4.6 Proposal – RPS Independent Evaluator Reports

As noted in the ACR, "[i]n D.06-05-039, the Commission required an IE to prepare a report on its evaluation of an IOU's RPS solicitation, evaluation, and selection process."[35] However, D.06-05-039 only applied to PG&E, SCE, and SDG&E. Accordingly, CASMU members are not required to use an IE to evaluate their RPS solicitation, evaluation, or selection process. For this reason, any proposal adopted by the Commission related to the use of IEs should not apply to CASMU members.

23. Comment on the strengths and weaknesses of the IE providing supplemental calculations.

As CASMU members are not required to use an IE, they provide no comments on this issue.

24. Are there additional evaluation criteria or requirements for IEs assigned to RPS solicitations that the Commission should adopt?

[35] ACR, p. 35.

As CASMU members are not required to use an IE, they provide no comments on this issue.

5.1 Implementation of New Least-Cost Best-Fit Requirements

25. Please describe how the Commission should implement each of the four specific topics listed in Section 399.13(a)(4)(A). Please include quantitative examples where relevant.

Section 399.13(a)(4) requires the Commission to adopt a LCBF process for the rank ordering and selection of RPS resources taking into account four different factors. For BVES, these factors are described and addressed individually below. As explained more fully below, PacifiCorp addresses the four specific topics in its IRP and IRP supplements. PacifiCorp requests that it be allowed to continue addressing these specific items in this manner. CalPeco requests that it continue to be exempted from the Commission-mandated LCBF criteria. CASMU members are not currently required to utilize Commission-mandated LCBF criteria when evaluating RPS bids[36] and should continue to be exempted.

BVES does strive to demonstrate consistency with LCBF and uses its own internal evaluation process that is similar to the three largest IOUs' formal LCBF analysis. BVES' internal bid evaluation process reflects the special statutory provisions that apply to BVES and the different RPS procurement requirements that apply to BVES when compared to California's three largest IOUs. This process also takes into account other RPS requirements, including those found in Section 399.13(a)(4)(A). Similarly, PacifiCorp is not subject to the LCBF requirements,[37] but instead uses its IRP for procurement planning purposes. However, as described in PacifiCorp's IRP and IRP supplements, the IRP is designed to identify least cost,

[36] D.04-07-029, which established the LCBF methodology, only applies to California's three largest IOUs.

adjusted for risk resource portfolio options. The concepts applied in PacifiCorp's IRP are similar to the three largest IOUs' formal LCBF analysis. Accordingly, any LCBF proposals or changes to the formal LCBF analysis should not apply to BVES or PacifiCorp and the Commission should continue to defer to BVES' and PacifiCorp's respective planning processes.

399.13(a)(4)(i): Estimates of indirect costs associated with needed transmission investments and ongoing electrical corporation expenses resulting from integrating and operating eligible renewable energy resources.

As BVES can and plans to satisfy its entire RPS procurement obligation using unbundled RECs, there should not be any transmission investment costs or integration or operation costs that would otherwise be associated with procuring bundled RPS resources. Accordingly, for BVES, this aspect of its bid evaluation process should be very simple and straightforward. That is, procurement of unbundled RECs should not impact BVES' integration and operation costs and should not play a role in BVES' RPS bid analysis.

Only in the event of BVES procuring Portfolio Content Category 1 or 2 products would integration and operation costs become a relevant factor. Should BVES procure any bundled RPS products, the integration and operation costs of such procurement should be analyzed against comparable products that were also considered by BVES.

399.13(a)(4)(ii): The cost impact of procuring the eligible renewable energy resources on the electrical corporation's electricity portfolio.

Clearly cost must be considered when evaluating and assessing the reasonableness of any RPS bids received by BVES. However, as described above in response to questions 9, 10, 20, and 21, additional factors will play a significant role in determining the price for unbundled REC transactions. The Commission must consider these other factors when evaluating price to determine that the procurement is undertaken to best fit the needs of the utility.

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[37] *Id.*

399.13(a)(4)(iii): The viability of the project to construct and reliably operate the eligible renewable energy resource, including the developer's experience, the feasibility of the technology used to generate electricity, and the risk that the facility will not be built, or that construction will be delayed, with the result that electricity will not be supplied as required by the contract.

Project viability is also important to the ultimate success of a renewable procurement contract. However, for BVES, the Commission has already determined that project viability screens do not apply. Accordingly, the Commission should not impose additional viability screens or requirements that apply to California's three largest IOUs. Nevertheless, BVES recommends that it be allowed to continue to utilize internal processes to assess project viability to help ensure that BVES can satisfy its RPS procurement obligations. These assessments will be discussed in the advice letters BVES submits to the Commission for approval of its RPS procurement.

It must also be noted that as BVES will procure unbundled RECs, there is no actual electricity that will be delivered. Accordingly, RPS contract failure will not impact BVES' electricity procurement portfolio or BVES' reliability needs, but will only impact its ability to meet its RPS procurement obligations.

399.13(a)(4)(iv): Workforce recruitment, training, and retention efforts, including the employment growth associated with the construction and operation of eligible renewable energy.

Based on BVES' size, location, and ability to satisfy RPS obligations using unbundled RECs, BVES has no plans to build or operate renewable facilities.

26. For each of these four topics, please compare your implementation proposal with the existing LCBF methodology as set out in D.04-07-029 and applied in the 2011 RPS Procurement Plans approved in D.11-04-030.

As described above, CASMU members are not subject to the LCBF requirements, although BVES and PacifiCorp strive to maintain consistency with LCBF criteria. Accordingly, the Commission should not require CASMU members to comply with any formal LCBF methodology or requirements adopted for California's three largest IOUs. Instead, CASMU members should continue to be allowed to utilize their own bid evaluation methodology when making procurement decisions. This is particularly important based on the CASMU members' unique characteristics and differing RPS procurement practices when compared to California's three largest IOUs.

27. For each of these four topics, and for your LCBF proposal as a whole, please explain how your proposal would affect costs ultimately paid by ratepayers for RPS-eligible energy, using quantitative examples where relevant.

As described above, BVES' ability to satisfy its RPS procurement obligations using 100% unbundled RECs will help ensure that ratepayer costs to comply with California's RPS program are minimized. The Commission should continue to recognize BVES' unique characteristics and allow BVES to use its internal methodology when making procurement decisions.

PacifiCorp relies on its IRP or IRP Supplement to determine the most cost-effective option to meet RPS compliance obligations. The Commission should continue to allow PacifiCorp to utilize its IRP and IRP supplements. As CalPeco is not subject to the LCBF requirements, it provides no additional comment on this topic.

28. For each of the four topics, and for your LCBF proposal as a whole, please explain how your proposed criteria would contribute to the efficiency of the RPS procurement process.

BVES' and PacifiCorp's RPS procurement processes are aimed to be as efficient as possible, and both utilities are striving to ensure that any RPS procurement undertaken will optimize their ability to meet their RPS procurement obligations at the lowest cost to ratepayers. Again, however, BVES must stress the importance and flexibility needed to ensure that RPS requirements are satisfied. This means that factors other than price must be evaluated to ensure that BVES can successfully contract with viable projects that can provide unbundled RECs meeting all of the RPS requirements, including long-term contracting requirements, while minimizing the potential for stranded RECs at the end of each compliance period.

As CalPeco is not subject to the LCBF requirements, it provides no additional comment on this topic.

29. What additional topics, if any, should be part of the LCBF process? Please provide a detailed discussion of each topic, using quantitative examples where relevant.

As described above, the major factors to include in BVES' bid evaluation process include price, project viability, contract flexibility, contract term, and consistency with RPS requirements. Due to the prohibition on carrying forward excess retired Portfolio Content Category 3 procurement, it is very important that BVES has the flexibility and ability to come as close as possible to its procurement targets with actual procurement. Due to the fluctuations in retail load, however, this is a very difficult task. Accordingly, procurement contracts that provide for additional flexibility and optionality with regard to the quantity and timing of unbundled REC deliveries should be afforded a higher value as they will help BVES meet its procurement obligations while minimizing the potential for stranded costs. This will help provide the greatest value to BVES' ratepayers.

As PacifiCorp and CalPeco are not subject to the LCBF requirements, they provide no additional comment on this topic.

5.2 Green Attributes Standard Term and Condition

30. In view of the adoption of RECs as the basis for RPS compliance, is STC 2 still necessary in its entirety? Please explain in detail, with reference to: 1) current commercial practice; 2) the regulatory requirements of the

Commission and any other relevant agencies (e.g., the California Energy Commission (CEC) and the California Air Resources Board (CARB)); and 3) recent legislation related to biofuels (Assembly Bill (AB) 1900 (Gatto); AB 2196 (Chesbro); and SB 1122 (Rubio)).

CalPeco has no comment on this issue. BVES does not provide specific recommendations to revise STC 2, but instead provides general recommendations for how any revised STCs must apply going forward. Whatever the Commission ultimately determines, it is vital that the Commission coordinate with other agencies to ensure that uniform language is utilized throughout California and to ensure that equal meaning is applied to any required language. This will help ensure that RPS procurement remains fungible, to the extent allowed. Due to transformations of Portfolio Content Category classification for Portfolio Content Category 1 and 2 products upon many resales, Portfolio Content Category 3 products are the most fungible products. Therefore, going forward, it is essential that the Commission strives to ensure that such products retain their fungibility across regulatory platforms.

Using uniform language will allow entities subject to different agency oversight to transfer products without fear of losing value or characteristics that are necessary to meet RPS requirements. This will also help to ensure that standardized interpretation and understanding is applied to any required language, assisting purchasers and sellers of RECs. Currently, most renewable transactions include the Green Attributes STC. Not only is it required to be used by Commission-jurisdictional entities, but the CEC has also adopted the Commission's "Green Attribute" STC.[38] Therefore, going forward, it is vital that agencies work closely together to arrive at similar requirements with identical timing structures. Providing as standardized a product as possible will help to ensure fungibility of renewable generation, helping to keep costs

[38] *See* CEC Renewable Energy Program Overall Program Guidebook, pp. 20-21, available at http://www.energy.ca.gov/2012publications/CEC-300-2012-005/CEC-300-2012-005-ED5-CMF.pdf.

down and renewable supplies up. PacifiCorp concurs, and additionally notes that conformity to the current language, most notable its broad environmental attribute coverage, further promotes uniformity and product fungibility.

The Commission should also allow renewable contracts to include certain non-material changes to STC 2 relating to conforming defined terms in STC 2 with contractual defined terms, without compromising the contract's ability to qualify for the RPS program. For example, pursuant to a renewable contract, a renewable generating facility may be referred to as a "Project," "Generating Unit," "Facility," or other term. If the exact language of STC 2 is not utilized and the renewable generating facility is called a "Facility" instead of a "Project," the contract should not be disallowed based on such a minor, immaterial technicality. The Commission should not reject a contract solely for a technical deviation, particularly when it is immaterial.

In addition, PacifiCorp requests further clarification with respect to the "Green Attribute" definition. In relevant part, STC 2 currently states:

> If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

Recent legislation concerning biomethane indicates the desirability of regulatory certainty with respect to when the conditions requiring the transfer of such Green Attributes are met. The Commission should consider providing exactly what it means to receive tradable Green Attributes, what instruments would qualify as such tradable Green Attributes, what it means for them to be "received," exactly how many of such Green Attributes must be "provided," and whether substitute Green Attributes providing the same offset value may be provided. For example, a facility seeking offset credits pursuant to a California Air Resources Board offset protocol for methane capture may be required to provide the same tonnage of credits to a REC buyer equal to the Carbon emissions from facility generation for the quantity of RECs sold if and only if such offset credits are actually issued by CARB for the period of generation.

31. Are specific elements of STC 2 still necessary? If so, which ones? Please explain in detail, with reference to: 1) current commercial practice; 2) the regulatory requirements of the Commission and any other relevant agencies (e.g., CEC and CARB); and 3) recent legislation related to biofuels (AB 1900 (Gatto); AB 2196 (Chesbro); and Senate Bill (SB) 1122 (Rubio)).

Based on the requirement that RECs be tracked in WREGIS,[39] any RECs sold must conform to the WREGIS definition for "Certificate." WREGIS defines "Certificate" as follows:

> The term "Certificate," as used in this document, refers to a WREGIS Certificate. A WREGIS Certificate represents all Renewable and Environmental Attributes from one MWh of electricity generation from a renewable energy Generating Unit registered with WREGIS or a Certificate imported from a Compatible Registry and Tracking System and converted to a WREGIS Certificate.[40] The WREGIS system will create exactly one Certificate per MWh of generation that occurs from a registered Generating Unit or that is imported from a Compatible Registry and Tracking System. Disaggregation of certificates is not currently allowed within WREGIS.[41]

WREGIS defines "Renewable and Environmental Attributes" as follows:

> Any and all credits, benefits, emissions reductions, offsets and allowances, howsoever entitled, attributable to the generation from the Generating Unit, and its avoided emission of pollutants.[42]

[39] *See* Pub. Util. Code § 399.25(c).

[40] A renewable Generating Unit, for the purposes of WREGIS, includes any Generating Unit that is defined as renewable by any of the states or provinces in the WECC.

[41] *See* WREGIS Operating Rules, p. 2, available at http://www.wecc.biz/WREGIS/Documents/WREGIS%20Operating%20Rules.pdf.

[42] The avoided emissions referred to here are the emissions avoided by the generation of electricity by the Generating Unit, and therefore do not include the reduction in greenhouse gases (GHGs) associated with the reduction of solid waste or treatment benefits created by the utilization of biomass or biogas fuels. Avoided emissions may or may not have any value for complying with any local, state, provincial or federal GHG regulatory

> Renewable and Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Generating Unit, (ii) production tax credits associated with the construction or operation of the Generating Unit and other financial incentives in the form of credits, reductions or allowances associated with the Generating Unit that are applicable to a state, provincial or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to the seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Generating Unit for compliance with local, state, provincial or federal operating and/or air quality permits.[43]

Collectively, the WREGIS definitions of "Certificate" and "Renewable and Environmental Attributes" are very similar to the existing STC 2. For simplicity, it may be easiest for the Commission to reference the WREGIS definition of "Certificate." Such a reference should remain valid if WREGIS alters its definition over time, as doing so will promote fungibility of renewable products by ensuring that they remain valid under the RPS program. However, BVES does not believe that the Commission needs to include additional elements in any revised STC other than what is provided in the WREGIS definitions.

CalPeco has no comment on this issue. PacifiCorp has no comment beyond what it said in its answer to item 30 above.

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program. Although avoided emissions are included in the definition of a WREGIS Certificate, this definition does not create any right to use those avoided emissions to comply with any GHG regulatory program.

[43] *See* WREGIS Operating Rules, pp. 4-5.

32. Even if not necessary, is STC 2, or are some elements of STC 2, still useful in RPS procurement contracts? Please explain in detail, with reference to: 1) current commercial practice; 2) the regulatory requirements of the Commission and any other relevant agencies (e.g., the CEC and CARB); and 3) recent legislation related to biofuels (AB 1900 (Gatto); AB 2196 (Chesbro); and SB 1122 (Rubio)).

As long as the elements discussed in response to questions 30 and 31 are included in the STC ultimately adopted by the Commission, BVES believes that the STC will satisfy RPS goals.

CalPeco and PacifiCorp have no comment on this issue.

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IV. Conclusion

CASMU appreciates this opportunity to provide comments on the ACR and looks forward to working with the Commission and stakeholders to refine the RPS program. The ACR primarily focuses on California's three largest IOUs and includes proposals that are specifically tailored to the RPS requirements for and procurement practices of those IOUs.

Many of the proposals fail to recognize that CASMU members have different RPS requirements and also conduct their RPS procurement using different processes. An arbitrary uniform RPS procurement process will not accurately account for the unique characteristics of CASMU members. For the reasons described above, the Commission should continue to recognize the unique characteristics of CASMU members and the distinct RPS requirements that apply to those utilities and exempt them from any new RPS procurement proposals that are adopted by the Commission. Alternatively, if the Commission does subject CASMU members to any new proposals, it should not impose a one-size-fits-all approach, but must adopt appropriately tailored requirements that account for CASMU members' unique characteristics and RPS procurement practices.

Dated: November 20, 2012

Respectfully submitted,

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VERIFICATION

I am the attorney for Bear Valley Electric Service ("BVES"), a division of Golden State Water Company, and am authorized to make this verification on its behalf. 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 forgoing is true and correct.

Executed on November 20, 2012 at Sacramento, California.

Jedediah J. Gibson

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