

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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

Rulemaking 11-05-005
(Filed May 5, 2011)

**COMMENTS OF
THE SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
ON THE ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON
COMPLIANCE AND ENFORCEMENT ISSUES IN THE
RENEWABLES PORTFOLIO STANDARD PROGRAM**

The Southern California Public Power Authority (SCPPA) appreciates the opportunity to file these comments in response to issues related to compliance with the California renewables portfolio standards (RPS) program offered by Administrative Law Judge Anne E. Simon on September 27, 2013.

I. INTRODUCTION

Although SCPPA members are not subject to the California Public Utilities Commission's (CPUC) jurisdiction, SCPPA members have a valid interest and potential stake in CPUC's review and possible revision of the penalties for noncompliance with the State's RPS requirements. SCPPA's interest in this proceeding is motivated by the fact that policies established by the CPUC may be used by, or set the tone for, the California Energy Commission (CEC) and California Air Resources Board (CARB) in their effort towards establishing a comparable RPS penalty regime for the Publicly Owned Utilities (POUs).

SCPPA supports comments submitted jointly by the California Municipal Utilities Association (CMUA) filed in this docket. However, in addition to its statement of support for the CMUA filing, SCPPA respectfully submits additional comments below.

II. SCPPA Response to Question 3.6 - Penalties

In principle, SCPPA respectfully requests that the CPUC penalty program reflect a fair and proportional cost of compliance for each load-serving entity, coupled with an overall penalty cap that is also relative to the load-serving entity's size.

SCPPA members reflect a diverse set of load-serving entities in both size and scope; each uniquely situated with particular challenges, distinctive ratepayer bases, and varied opportunities to procure renewable resources in a cost-effective manner. When compared to Investor-Owned Utilities, most SCPPA members' retail sales represent only a small fraction of the Investor-Owned Utilities' retail sales.

Under the RPS legislation, the compliance obligations of all load-serving entities are based on a fixed percentage of a particular load-serving entity's retail sales. Accordingly, we recommend that the maximum penalty for non-compliance should be consistent with and follow this proportionality principle and account for the size of the load-serving entity's retail sales. To do so otherwise is highly problematic as it will subject smaller load-serving entities to disproportional financial burdens, an outcome that is neither warranted nor intended by the RPS legislation.

Accordingly, SCPPA recommends that the CPUC adopt a penalty methodology that sets maximum penalty limits commensurate with the retail sales of each load-serving entity, and allows for a case-by-case review of specific potential violations. Additionally, we recommend that the CPUC adopt provisions for exceptions arising from

circumstances beyond a load-serving entity's control. Such exceptions are consistent with mitigating circumstances rules established by the applicable jurisdictional governing boards (CPUC for the CPUC-jurisdictional retail sellers and local governing boards for the POU's).

Further, the proposed overall penalty cap should be set over an entire compliance period, not on an annual basis, as some compliance periods span multiple years. This proposed approach recognizes and takes into consideration the statutorily-provided rights of load-serving entities to use alternative compliance mechanisms and to make-up shortfalls or carry-forward excess procurement in prior years to meet RPS targets within a compliance period – not annually.

SCPPA appreciates the opportunity to provide these comments to the Commission in this proceeding and urges the Commission to consider the unique circumstances of each California load-serving entity as it meets the State's RPS goals.

Dated: October 25, 2013

Respectfully submitted,

/s/ Tanya DeRivi

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VERIFICATION

I am an officer of the Southern California Public Power Authority, 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 October 25, 2013 at Sacramento, California.

/s/ Tanya DeRivi
Director of Regulatory Affairs
Southern California Public Power Authority