

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**02-06-12
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February 6, 2012

Agenda ID #11040
Ratesetting

TO PARTIES OF RECORD IN RULEMAKING 06-02-012

This is the proposed decision of Administrative Law Judge (ALJ) Anne E. Simon. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Anne E. Simon at aes@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTONKaren V. Clopton, Chief
Administrative Law Judge

KVC:oma

Attachment

Decision **PROPOSED DECISION OF ALJ SIMON** (Mailed 2/6/2012)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to develop additional methods to implement the California renewables portfolio standard program.

Rulemaking 06-02-012
(Filed February 16, 2006)

**DECISION DENYING PETITION OF CENTER FOR ENERGY
EFFICIENCY AND RENEWABLE TECHNOLOGIES FOR THE
MODIFICATION OF DECISION 11-01-025**

I. Summary

Because the enactment of Senate Bill 2(1X) (Simitian), Stats. 2011, ch. 1, and the Commission's Decision (D.) 11-12-052 have resolved all issues raised in this petition for modification of D.11-01-025, the petition for modification is denied. This proceeding is closed.

II. Procedural Background

In Decision (D.) 11-01-025, the Commission denied, with the exception of one technical point, two applications for rehearing of D.10-03-021, and slightly modified D.10-03-021. As far as relevant here, D.10-03-021 authorizes the procurement and use of tradable renewable energy credits (TREC) for compliance with the California renewables portfolio standard (RPS) program, and sets forth the structure and rules for a TREC market and for the integration of TREC into the RPS flexible compliance system.

On February 14, 2011, the Center for Energy Efficiency and Renewable Technologies (CEERT) filed the Petition of the Center for Energy Efficiency and

Renewable Technologies for Modification of Decision 11-01-025 (Petition). No responses to the Petition were filed.

III. Discussion

CEERT's Requested Modifications

CEERT seeks clarification, revision, or change of three ordering paragraphs (OP) of D.10-03-021, as modified by D.11-01-025, and proposes three new ordering paragraphs. CEERT proposes that:

1. OP 6 should be changed to expand the number of transactions that are classified as TREC transactions under D.10-03-021, as modified by 11-01-025, that can be counted as bundled deliveries for purposes of RPS compliance;
2. OP 7, defining bundled transactions for RPS compliance, should be deleted;
3. OP 18 should be changed to expand the number of transactions that are not subject to the limitation on the use of TREC transactions;
4. An OP should be added to require the Director of Energy Division to publish a list of all previously approved contracts that are now classified as TREC under D.10-03-021, as modified by D.11-01-025, as well as specified information about each listed contract;
5. An OP should be added to require a process, culminating in a new Commission decision, to characterize all transactions that should be classified as TREC transactions under D.10-03-021, as modified by D.11-01-025.; and
6. An OP should be added requiring Energy Division staff to produce a report on the characterization of RPS procurement transactions using firm transmission arrangements by a date certain.

Subsequent Events

Senate Bill (SB) 2 (1X) was signed by the Governor on April 12, 2011. Because SB 2 (1X) was enacted by the First Extraordinary Session of the Legislature, it became effective 90 days after the end of the special session in which it was enacted.¹ SB 2 (1X) went into effect December 10, 2011.

Among many other changes to the RPS program, SB 2 (1X) created a new classification of portfolio content categories. (Pub. Util. Code § 399.16.)² In D.11-12-052, the Commission implemented the new portfolio content categories. The portfolio content categories in Section 399.16, as implemented by D.11-12-052, are different from the bundled/TREC classification of RPS procurement transactions made in D.10-03-021, as modified by D.11-01-025. SB 2 (1X) also provides that the new portfolio content categories apply to all RPS procurement contracts signed after June 1, 2010; contracts signed prior to that date are not subject to the portfolio content category requirements, if they meet certain basic requirements. (Section 399.16(d).) In view of the changes to RPS procurement made by the new portfolio content category requirements, the Commission also concluded that its direction to Energy Division to study the role of firm transmission in RPS procurement transactions was no longer necessary. (D.11-12-052, OP 10.)

Taken together, the changes made by new section 399.16 and D.11-12-052 either resolve the issues CEERT has raised in its Petition or render them

¹ See Gov't Code § 9600(a).

² Unless otherwise noted, all further references to sections are to the Public Utilities Code.

irrelevant, because of the institution of the new portfolio content categories. CEERT's requested alterations to D.11-01-025 are therefore moot, and the Petition should be denied.

IV. Comments on Proposed Decision

The proposed decision of Administrative Law Judge (ALJ) Anne Simon in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 14.3 of the Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

V. Assignment of Proceeding

Mark J. Ferron is the assigned Commissioner and Anne E. Simon is the assigned ALJ for this proceeding.

VI. Findings of Fact

1. SB 2 (1X) became effective December 10, 2011.
2. In D.11-12-052, the Commission implemented the new RPS portfolio content categories sets forth in SB 2 (1X).
3. In D.11-12-052, the Commission relieved the Director of Energy Division of the obligation imposed by OP 26 of D.10-03-021, as modified by D.11-01-025, to investigate and report on the place of firm transmission in procurement for RPS compliance.

VII. Conclusions of Law

1. The implementation of the new RPS portfolio content categories set out in SB 2 (1X) has rendered moot all the contentions of CEERT's Petition related to the classification of RPS procurement transactions as bundled or TREC transactions.
2. The Commission's determination that the Director of Energy Division is relieved of the obligation imposed by OP 26 of D.10-03-021, as modified by

D.11-01-025, to investigate and report on the place of firm transmission in procurement for RPS compliance has rendered moot the contentions of CEERT's Petition related to the obligations of Energy Division staff to study and report on the role of firm transmission in RPS procurement.

3. In order to remove uncertainty about the status of RPS procurement under SB 2 (1X), this decision should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The Petition of the Center for Energy Efficiency and Renewable Technologies for Modification of Decision 11-01-025, filed February 14, 2011, is denied.
2. Rulemaking 06-02-012 is closed.

This order is effective today.

Dated _____, at San Francisco, California.