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**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

March 24, 2010

TO PARTIES OF RECORD IN RULEMAKING 06-02-012

At the Commission Meeting of March 11, 2010, Commissioner Timothy Alan Simon reserved the right to file a concurrence in Decision 10-03-021. The decision was mailed on March 16, 2010.

The concurrence of Commissioner Simon is now available and is attached herewith.

/s/ KAREN V. CLOPTON  
Karen V. Clopton, Chief  
Administrative Law Judge

KVC:tcg

Attachment

**Concurrence of Commissioner Timothy Alan Simon**  
**Tradable Renewable Energy Credits**  
**R.06-02-012/D.10-03-021**

I support this decision setting forth a policy framework and guidelines for the implementation of Tradable Renewable Energy Credits (TRECs or RECs) as part of the California Renewable Portfolio Standard (RPS). The decision represents a significant investment of time and effort in the meticulous design of a TRECs market that moves us closer to our long term renewable procurement goals while offering necessary safeguards to protect California's ratepayers. On balance, the unveiling of this TRECs market is a critical step forward that will send positive signals to the investment community and to developers of renewable resources.

**An Incremental and Regional Approach to Advancing the TRECs Market**

Thus, we take an incremental approach by instituting a fifty dollar REC price cap<sup>1</sup> and a transitional twenty-five percent limit on the use of RECs for compliance with Annual Procurement Targets (APTs) of our RPS-obligated Load Serving Entities (LSEs).<sup>2</sup> Simultaneously, we offer our RPS-obligated LSEs flexible compliance opportunities, such as banking provisions, as we are able to rely on the Western Renewable Energy Generation Information System (WREGIS) for the tracking and accounting of RECs.<sup>3</sup> These features should enhance price transparency and mitigate market price distortions in this nascent TRECs market, while flexibly promoting the development of new RPS-eligible generation and facilitating renewable procurement efficiencies. This "training wheels" approach to market development will give the Commission an opportunity to more closely monitor market dynamics during a two-year period, at which time we will evaluate the need for these proposed regulations.<sup>4</sup>

I have voted for the twenty-five percent limit on the use of RECs for compliance in an effort to build consensus on this major decision. However, I had expected a higher cap as a compromise and therefore would support support increasing this cap and revisiting the 25 percent limit on the use of RECs for compliance as well as the other features of our market design. It is important to recognize that increasing market liquidity is necessary if we are to successfully maintain competitive REC prices and promote further development of new eligible renewable resources in the Western Electricity Coordinating Council (WECC) region. Raising the cap on the use of RECs in the near term will help us to achieve this liquidity and the benefits of a fully functioning

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<sup>1</sup> Decision Authorizing Use of Renewable Energy Credits for Compliance with the California Renewables Portfolio Standard (D.10-03-021), December 23, 2009. See pp. 55-62.

<sup>2</sup> *Id.*, at 42.

<sup>3</sup> *Id.* at 3.

<sup>4</sup> *Id.* at 83.

regional market. In addition, I have long supported clean energy policy implementation on a regional basis, in large part because greenhouse gas (GHG) mitigation efforts are not California's responsibility alone, as demonstrated by the efforts of the Western Governors Association, the Western Climate Initiative, the WECC, and other regional stakeholder groups. Furthermore, we cannot be unduly protectionist in our approach to long term resource planning.

### **Addressing Regional Planning Issues and In-State Economic Concerns**

Nevertheless, I acknowledge that we must remain vigilant of the TRECs market to ensure that the demand for RECs by California's RPS-obligated LSEs does not have unintended consequences for integrated resource and transmission planning in other jurisdictions in the WECC region. These regional planning issues have raised legitimate concerns, but we should keep in mind that other jurisdictions have their own set of regulatory planning tools that the CPUC does not regulate, which ensure that their respective procurement and resource integration needs are met. While desiring a higher cap, I do understand that the incremental approach taken today is designed as a trial period for evaluating regional resource development under a TRECs paradigm.

Lastly, it is also imperative to understand that California's long term economic welfare will not be stymied by the transition to a TRECs market. Rather, California's economic development and jobs growth depend on a complex set of factors and challenges that far outweigh the speculative impacts RECs will have on new renewable development. These impacts, and consequently, barriers, are largely imposed by a set of state and local restrictions to infrastructure deployment. The TREC marketplace should not bear the burden of California's challenges to bring domestic renewable projects online in a manner that will comply with legislatively imposed greenhouse gas (GHG) regulatory mandates. Furthermore, a regional approach to clean energy policies should result in economic opportunities for the entire western region.

I fully support this decision, and look forward to revisiting these issues in the near future.

Dated March 17, 2009, at San Francisco, California.

/s/ TIMOTHY ALAN SIMON  
TIMOTHY ALAN SIMON  
Commissioner