



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

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

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

**CALIFORNIA ASSOCIATION OF SMALL AND MULTI-JURISDICTIONAL
UTILITIES (CASMU) COMMENTS TO SEC. 399.20 RULING DATED JUNE 27, 2011**

Jedediah J. Gibson
Ellison, Schneider & Harris, LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Telephone: (916) 447-2166
Facsimile: (916) 447-3512
Email: jjg@eslawfirm.com

Attorneys for PacifiCorp
On Behalf of the California Association of
Small and Multi-Jurisdictional Utilities

July 21, 2011

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Pursuant to the June 27, 2011 Administrative Law Judge's Ruling Setting Forth Implementation Proposal for SB 32 and SB 2 1X Amendments to Section 399.20 (ALJ Ruling), the California Association of Small and Multi-Jurisdictional Utilities (CASMU), which includes Bear Valley Electric Service (U 913-E), a division of Golden State Water Company (BVES), California Pacific Electric Company, LLC (U 933-E) doing business as Liberty Energy – California Pacific Electric Company (CalPeco), and PacifiCorp (U 901-E), d.b.a. Pacific Power (PacifiCorp)¹ hereby provides these comments on the ALJ Ruling. Based on Section 4.11 of the ALJ Ruling's determination that the CASMU utilities should be exempted from the Public Utilities Code Section 399.20² program, these comments do not address any of the other issues in the ALJ Ruling's initial proposal. However, CASMU reserves the right to comment on other program aspects in the event that the CASMU utilities are required to participate in the program.

I. The ALJ Ruling Correctly Exercises Statutory Discretion to Exempt the CASMU Utilities from the Public Utilities Code Section 399.20 Program.

The ALJ Ruling reviewed and agreed with the position taken by CASMU in its March 7, 2011 Brief on Implementation of Senate Bill 32 (Brief).³ The ALJ Ruling also properly interpreted Section 399.20(c) by exempting the CASMU utilities from the Section 399.20

¹ It should be noted that the CASMU group no longer includes Mountain Utilities (U 906 E) based on Decision (D.) 11-06-032, issued on July 1, 2011, which approved the sale and transfer of control of assets and relieved Mountain Utilities of its obligation to provide public utility electricity service.

² Unless otherwise noted, all section references refer to the Public Utilities Code.

program. Section 399.20(c) authorizes the California Public Utilities Commission (Commission) to “modify or adjust the requirements of this section for any electrical corporation with less than 100,000 service connections, as individual circumstances merit.”

The plain language of Section 399.20(c), allowing modification or adjustment, clearly authorizes the Commission to change the program as it deems fit, including exempting utilities from the program. The ALJ Ruling correctly analyzes and interprets Section 399.20(c) and its corresponding determination to exempt the CASMU utilities from the Section 399.20 program falls squarely within the explicit statutory discretion provided to the Commission.⁴

II. Conclusion

For the reasons enumerated above and in the March 7, 2011 CASMU Brief, CASMU supports the determination in the ALJ Ruling that the CASMU utilities should be exempted from the Section 399.20 program in accordance with the explicit statutory authority provided in Section 399.20(c).

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³ CASMU’s March 7, 2011 Brief is available at <http://docs.cpuc.ca.gov/efile/BRIEF/132678.pdf>. For the sake of brevity, CASMU will not repeat the positions taken in its Brief in these comments.

⁴ It should also be noted that the Commission has historically recognized the unique characteristics of the CASMU utilities, for example the Commission has not required the CASMU utilities to file two separate tariffs, one for water and wastewater customers and one for all other customers, under the § 399.20 program. The ALJ Ruling incorrectly states that “[e]ach electric corporation, regardless of size, currently has these two tariff schedules.” (ALJ Ruling, p. 15.) The Commission’s website, available at <http://www.cpuc.ca.gov/PUC/energy/Renewables/feedintariffsum.htm>, accurately reflects that the CASMU utilities only offer one feed-in tariff for water and wastewater facilities.

Dated: July 21, 2011

Respectfully submitted,



Jedediah J. Gibson
Ellison, Schneider & Harris, LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Telephone: (916) 447-2166
Facsimile: (916) 447-3512
Email: jig@eslawfirm.com

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VERIFICATION

I am the attorney for PacifiCorp and am authorized to make this verification on its behalf and on behalf of Bear Valley Electric Service and California Pacific Electric Company, LLC (the Respondent Corporations). The Respondent Corporations are 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 foregoing is true and correct.

Executed on July 21, 2011 at Sacramento, California.

A handwritten signature in blue ink, reading "Frederick J. Johnson". The signature is written in a cursive style with a horizontal line underneath it.

Attorney for PacifiCorp