

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



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Order Instituting Rulemaking to Develop Additional
Methods to Implement the California Renewables
Portfolio Standard Program.

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

**POST-WORKSHOP COMMENTS OF PACIFICORP (U 901-E) ON TRADABLE
RENEWABLE ENERGY CREDITS**

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Date: November 13, 2007

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OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Develop Additional
Methods to Implement the California Renewables
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RENEWABLE ENERGY CREDITS**

Pursuant to *Administrative Law Judge's Ruling Requesting Post-Workshop Comments on Tradable Renewable Energy Credits* dated October 19, 2007 (the "Ruling"), PacifiCorp (U 901-E) respectfully submits the following comments addressing tradable renewable energy credits ("TREC's") and the California energy market. PacifiCorp appreciates the opportunity to submit these comments in this proceeding.

I. INTRODUCTION

PacifiCorp is a multi-jurisdictional utility that provides retail electric service to approximately 1.6 million customers in six states, including California, Idaho, Oregon, Utah, Washington and Wyoming. In California, PacifiCorp services approximately 46,500 customers in Del Norte, Modoc, Shasta and Siskiyou counties. PacifiCorp has been actively involved in the development and implementation of California's Renewables Portfolio Standard ("RPS") program, including participation in the three day REC Trading for RPS Compliance Workshop dated September 5-7, 2007, which is the subject of these comments. PacifiCorp also submitted pre-workshop comments dated August 17, 2007. PacifiCorp continues to support an open and

comprehensive dialogue with Commission staff and other interested parties to address this challenging, but workable issue in a manner that achieves the goals of the RPS program.

II. DISCUSSION

PacifiCorp has been actively adding cost-effective renewable resources to its generation portfolio. PacifiCorp has been adding these renewable resources because it has been able to do so in a manner (e.g., utility ownership and operation) which is cost effective for its customers. As PacifiCorp addressed in its pre-workshop comments, the option to purchase and utilize TRECs for compliance with state and federal RPS requirements is essential to ensuring that compliance can be achieved in the most cost-effective manner. The ability to use TRECs provides both a reasonable market-based control over the prices for renewable energy in the market, as well as a viable compliance option when deliverable renewable energy is not available at cost-effective prices. The availability of TRECs for compliance will help utilities, such as PacifiCorp, comply with RPS program requirements and to supplement variations in renewable output on a system-wide basis, while ensuring continued compliance with California RPS requirements.

In this context, PacifiCorp addresses the specific questions presented in the Ruling relating to: (1) basics of a TREC market and (2) Staff's straw proposal.¹ Importantly, PacifiCorp respectfully requests that the Commission not perceive the absence of comments by PacifiCorp on any particular question, specific issue or other matter as a conclusive indication of PacifiCorp's lack of interest with respect thereto. PacifiCorp acknowledges the ongoing nature of the issues relating to TRECs in the context of the RPS program and reserves the right to present additional comments at a future time, as necessary.

A. Basics of a Tradable REC Market

¹ PacifiCorp respectfully declines to submit comments regarding REC Attributes and Standard Terms and Conditions at this time.

Question 1: Of the following statements from Attachment D, please agree or disagree with each, and provide justification based on specific experiences and/or economic analysis.

- (a) Tradable RECs will not affect current factors limiting new renewable energy projects in California. The limiting factors include: lack of adequate transmission infrastructure, complex and lengthy permitting processes, and in-state delivery requirements for RPS-eligible generation.**

PacifiCorp disagrees with this statement. TRECs may serve to alleviate some of the limiting factors affecting new renewable energy projects in California. For example, TRECs may enable customers to achieve the benefits of renewable energy without the necessity for a physical transmission path or the reservation of transmission on already congested lines. This will potentially free up transmission capacity and infrastructure to promote new renewable energy projects in California. TRECs also offer the opportunity for development of renewable resources in locations with existing transmission, or where construction of new transmission lines will be less disruptive, which carries with it the potential of promoting local California goals respecting environmental justice.

- (b) Tradable RECs will provide buyers and sellers of RPS-eligible generation with additional contracting flexibility in the near term and long term.**

PacifiCorp agrees with this statement. The more expansive the portfolio of available compliance options, the more flexibility buyers and sellers will have to address near term and long term goals. The ability to disaggregate components of a single commodity into two commodities (by permitting RPS-eligible energy to be divided into energy plus RPS-eligible tags) offers buyers and sellers more opportunities to select which of the components they need for their particular purposes, without the unwanted component acting as a drag on transactions or unnecessary adder to price.

- (c) Tradable RECs will facilitate RPS compliance for small LSEs, but will only**

marginally affect large IOUs' RPS compliance in the near term (i.e. until the 20% target is reached).

PacifiCorp agrees with the first part of this statement. The ability of TRECs to affect large IOU compliance in the near term will depend on how TRECs are permitted to be used as a compliance tool, and the competition for TRECs by other state compliance programs. TRECs may substantially assist large IOU compliance in the near term while competition created by other state or federal renewable portfolio standards is lower than might later be the case.

TRECs will also facilitate RPS compliance by multi-state utilities that have the majority of their generation and customers outside of California. The availability of TRECs for compliance will help PacifiCorp comply with RPS program requirements, since PacifiCorp has the majority of its generation and its customers outside of California. TRECs will allow PacifiCorp to supplement variations in renewable output on a system-wide basis, while ensuring continued compliance with California RPS requirements, since PacifiCorp does not currently assign specific resources to specific states. Utility customer energy usage, and hence RPS compliance requirements, although predictable in a general sense, can be uncertain and subject to rapid fluctuations in the near term. TRECs will supplement and facilitate RPS compliance as PacifiCorp continues to develop renewable resources on a multi-jurisdictional basis.

(d) Given the stringent RPS targets and limited supply of surplus renewable energy in the near term (at least until the 20% target is reached), the California REC market would reflect a supply and demand imbalance.

PacifiCorp generally agrees with this statement. Markets by definition balance supply and demand by producing a price. The market price is the price at which supply and demand are in balance. If there is more demand than supply, the price will rise to a higher price. To the extent there are imbalances, these would be reflected in volatility of price. The greater the extent to which TRECs markets are developed and made available for use, the more transparent for

regulators and market participants will be the price signals they provide, providing knowledge of the price at which supply and demand are balanced, and the extent and frequency of supply and demand imbalances.

Question 2: What are the most likely sources of RECs that could be traded in the 2008-2011 timeframe? Please focus on RECs associated with generation that will meet the delivery requirements of Pub. Util. Code §399.16(a)(3)?

Based on the assumptions that: (1) the California Energy Commission Renewables Portfolio Standard Eligibility Staff Draft Guidebook posted September 14, 2007, which was the subject of a California Energy Commission Workshop on September 26, 2007, and particularly footnote 11 on page 31 and the surrounding text therein, is adopted in a form substantially similar to its presently posted form, and (2) PacifiCorp's out of state, pre-2001, small hydroelectric facilities are part of its existing baseline of eligible renewable energy resources in accordance with California Public Resources Code 25741(b)(2)(C)(ii), and each qualify as "In-state renewable electricity generation facility" as that term is defined in Public Resources Code 25741(b), PacifiCorp could make available installed capacity from small hydro resources that are currently in the process of being certified as RPS-eligible resources at the California Energy Commission.

Question 3: Please revisit the following two issues discussed in pre-workshop comments in light of the presentations and discussion at the workshop:

- (a) How, if at all, would REC trading, as compared to the current firming and shaping rules for delivery of RPS-eligible power into California, provide more flexibility or be less costly for procuring out-of-state renewable energy? Please provide specific examples of situations in which REC trading would enable procurement of energy from new renewable resources located outside of California and delivering energy into California that would not otherwise be possible.**

Allowing TRECs would provide an alternative to a complicated rules-based procedure set forth in the current firming and shaping rules, which should provide a more efficient market.

Additionally, working through the current firming and shaping rules requires overhead in the form of personnel familiar with the rules and procedures, as well as to implement rules and procedures. This level of expertise adds a layer of expense that is not required in TREC trading. Furthermore, the banking and shaping rules require special activities, such as manually adding notations to e-tags, which also are not required in TREC trading. TREC trading would broaden the sources of potential TRECs for compliance.

- (b) How, if at all, would REC trading, as compared to current RPS flexible delivery rules, provide more flexibility or be less costly in overcoming transmission congestion constraints? Please provide specific examples of situations in which REC trading would enable renewable energy projects to be developed in transmission constrained areas in California that would not otherwise be feasible?**

Renewable resource development becomes economically more efficient if locally generated energy from a renewable resource can be rendered available to more than one market and more than one purchaser. Since the renewable energy is not required to be linked with a TREC, the purchaser of the TREC and the purchaser of the energy can be different entities with different needs. If a local market opportunity is presented for a renewable resource generator within an area where transmission is constrained, the energy could be used locally, without the need to export it, while the TRECs themselves could be exported.

Question 5: Please comment on Dr. Weiss's assessment of the elasticity of RPS supply and demand curves.

PacifiCorp is pleased that stakeholders have been provided the opportunity to comment on Dr. Weiss's comprehensive economic analysis. PacifiCorp would note that Dr. Weiss's assessment of the elasticity of TRECs supply and demand curves is based on a theoretical market that does not exist. Dr. Weiss's model of perfect inelasticity above the compliance demand point assumes that compliance is set by one regulator, were compliance requirements are known and

do not change over time, and that banking or borrowing is not allowed. In fact, none of these assumptions is present in the emerging TREC market in the Western US. TRECs are allowed under both the Oregon and Washington RPS statutes, with unlimited banking of TRECs in Oregon and three-year banking of TRECs in Washington. Therefore, the price of TRECs could quite easily move into levels between the "very high levels" and "very low levels" that Dr. Weiss postulates, to the extent TRECs are fungible across compliance regimes and uncertainty is introduced into the market. Promoting the ability of TRECs generated in one state to be used for compliance in other states (through reciprocity or otherwise) will help promote the more normal commodity price behavior that Dr. Weiss is concerned is missing from TRECs markets.

Question 6: If demand for tradable RECs for RPS compliance exceeds supply in the California REC market (at least in the near term), do you agree with Dr. Weiss's analysis that REC prices would tend to float to the RPS penalty amount (\$50/MWh)? Would prices float to any other price cap the Commission might implement?

While PacifiCorp acknowledges that the \$50/MWh penalty will have an influence over the price of TRECs in a supply-constrained market, the price is not going to rise to hit the penalty or cap price, solely to hit that price. The price may rise if there is a shortage, up to the amount of a cap, although simply because there is a cap does not guarantee that there will be transactions at the cap price. Owners of TRECs may not wish to part with TRECs at the cap price. Rather, the price will rise and fall on the basis of supply and demand.

Second, there are the realities of the marketplace and RPS compliance design. Prices may "float up" due to shortages in the underlying commodity, and they may be "pinned down" through an unlimited supply at a certain price. However, the penalty does not represent unlimited supply in the case of the California RPS penalty, but rather simply transfers the identity of the payor in a manner that the compliance entity will take every effort to avoid.

(a) If REC prices floated to the penalty amount or a price cap, would a market for tradable RECs drive up the price of bundled RECs contracts?

No. Neither a penalty amount nor a cap would necessarily "drive up" the price of TRECs. A cap can induce shortages, if owners of a commodity are unwilling to part with it for the capped price. Second, TRECs can likely only drive down the price of compliance as a competitive alternative to the purchase of bundled TRECs through long term contracts.

(b) If REC prices floated to the penalty amount or a price cap, how would this affect California ratepayers in the short term? In the long term?

If TRECs prices increased, it would indicate that the cost of compliance, through any of the permitted means of compliance, has increased, and California customers would pay more for that compliance, in the short-term and in the long-term. This is the case with any other commodity or service with which California has tasked its utilities to acquire on behalf of its ratepayers. TRECs markets offer market participants, and those affected by such markets, clear and contemporaneous price signals. However, TRECs, if available as a compliance alternative, by increasing the supply of means of compliance by necessity will help reduce the ultimate price paid for compliance.

(c) If REC prices floated to the penalty amount or a price cap, would all RPS non-compliance costs then be transferred from utility shareholders to ratepayers? Would some portion of non-compliance costs be transferred?

If TRECs prices reached or exceeded the penalty price, utilities could purchase the TRECs at the higher prices. Note that the straw proposal recognizes this when it says on Attachment E, page 6 col. 3, "\$50/REC, which is the non-compliance penalty price ... might not even be the highest price, since IOUs have an incentive to procure RECs for over \$50 to transfer non-compliance costs from shareholders to ratepayer." PacifiCorp's other RPS states have dealt

with this situation in alternate ways. In Washington, the Commission's rules allow for utilities to request deferral of penalty costs for future consideration of recoverability in rates of penalty payments. Parties have acknowledged that it may be advisable for the utility to pay more than the penalty price for a TREC since the payment actually acquires a renewable resource, whereas payment of the penalty provides no renewable resource benefit. In Oregon, an alternate compliance payment regime was adopted in the legislation; the implementation details have not yet been adopted and are the subject of an ongoing rulemaking proceeding. PacifiCorp believes that the California rules and practices with respect to RPS implementation will be informed in the future by the experiences of other states.

Question 7: Dr. Weiss presents an analysis of REC markets showing a bimodal pricing distribution, colloquially referred to as "boom-bust" pricing,

- (a) Please describe any situations in a California REC market in which the boom-bust pricing pattern is likely not to occur.**

The boom-bust pricing is likely not to occur in a market in which the compliance TRECs in California are exchangeable for compliance RECs in other jurisdictions and vice versa. It is also likely not to occur given the banking and borrowing rules that are emerging in the compliance regimes. With a broader array of regulatory markets available to the sellers of TRECs and as sources of purchasers of TRECs, there will likely be a smoothing of market prices just as more potential purchasers and sources of any commodity help to smooth out pricing patterns in those commodities.

- (b) In the timeframe 2008-2011, are contracts for RECs likely to provide developers of new renewable facilities in California and neighboring states with additional financial resources (both in terms of cash flow for the facility and in terms of willingness of investors and/or lenders to provide capital for development of the facility)? Why or why not?**

Yes. Dr. Weiss sees TRECs as supplemental to long-term contracting, and stated in his

presentation that "any implementation of a REC-based compliance system should not create an incentive to move away from long-term contracting for renewable power" However, reducing reliance on long-term contracting through TREC trading can be beneficial. Long-term contracts shift risks from one party to the other for long periods of time, and the price of the exchange of those risks is built into the cost of the contracts. The seller is compensated for the risk that the price could be higher in more distant years by a higher price for the current year, just as the buyer pays more in current years to protect from the risk of higher prices in the more distant years.

TRECs will not replace long-term contracting. As Dr. Weiss states, long-term contracting is often an essential component necessary for the financing of the construction of new renewable resources. However, renewable resource developments require substantial equity investment, and the revenue from a long term contract is generally not fully lent against, and certainly not to the extent to which would be the case with a traditional fossil-fuel fired plant, where the debt on the plant that relies on the long-term contract as collateral often is assigned a credit rating just below that of the long-term buyer. The trading market and TRECs price fluctuations in the near and medium term offer potential value to the equity investors that they might wish to exploit, especially if market conditions make the plant economical absent any revenues from TRECs.

Reasons for developers to choose TRECs markets, rather than long-term contracting, for disposition of their TRECs include the uncertain potential future state, federal and international Carbon compliance regimes, into which TRECs might be convertible, or represent some level of compliance, on some basis, but with respect to which there is high current uncertainty. Renewable resource projects were developed and financed long before there were active TRECs

or Carbon markets, as PURPA qualifying facilities or otherwise.

PacifiCorp agrees with Dr. Weiss that long-term contracting and merchant TRECs markets are each important components of a successfully TRECs program; however just as TRECs markets are not a complete substitute for long-term contracting, long-term contracts cannot completely replace the value that active TRECs markets bring.

- (c) **Please describe how the design of a tradable REC market for compliance with the California RPS should take into account the boom-bust pricing tendency. Please specify whether your design proposal posits a REC market whose principal purpose is: (i) providing compliance flexibility for California RPS-obligated LSEs; or (ii) stimulating development of new renewable energy generation capable of delivering into California; or either (i) or (ii) depending on whether the timeframe considered in 2008-2011 or 2012-2020; or (iv) both (i) and (ii).**

The design of a TREC market for compliance with the California RPS should take into account the potential for a boom-bust pricing tendency through design decisions. These design decisions include making California TRECs fungible with the TRECs of other state programs as other state program TRECs are made fungible with California TRECs. The greater the sources of TRECs for program compliance and market outlets for TRECs as compliance instruments, the lesser the "boom-bust" tendency, and the greater the likelihood of smoother pricing based on real supply and demand from and to multiple sources.

B. Staff Straw Proposal

PacifiCorp applauds the staff straw proposal, both for thoroughness and its clear attentiveness to the pre-workshop comments and the proceedings of the workshop itself.

Question 1: For each area of the straw proposal please address the following issues, as well as any other issues that would contribute to a complete discussion of the straw proposal. Please provide all information necessary to support the analysis presented in the comments. Where relevant, please comment on the rationale provided by staff for each area.

- (a) **Impact on and integration with the existing methods of RPS compliance,**

including both procurement methods and existing flexible compliance rules.

TRECs will integrate well with existing methods of RPS compliance, since they will allow utilities to supplement variations in renewable output, while ensuring continued compliance with California RPS requirements. This is of particular importance to PacifiCorp's small base of customers in California, since PacifiCorp owns most of its generation outside the state and does not currently assign specific resources to specific states. TRECs will supplement and facilitate RPS compliance as PacifiCorp continues to develop renewable resources on a multi-jurisdictional basis.

(b) Impact on and integration with the existing methods of RPS reporting.

PacifiCorp supports the straw proposal's reliance on WREGIS. Further integration with WREGIS will promote WREGIS as a reliable platform for high-integrity delivery and transfer of TRECs. As a successful platform, WREGIS will be available to regulators in other states as a tool to enhance region-wide fungibility of TRECs tracked through WREGIS.

(c) Impact on the development of new renewable resources in California and neighboring states.

As stated above, TREC trading serves the purpose of promoting the development of new infrastructure for renewable energy generation in locations where such infrastructure is most economical. To the extent the straw proposal promotes such development by authorizing TRECs, the proposal will encourage new renewable resources in California and neighboring states. The advantage TREC trading offers customers is to enable them to receive the benefits of renewable energy generation, developed in locations where it is most cost-effective for the generation and transmission to be constructed.

(d) Impact on RPS compliance in the timeframe 2008-2011.

The straw proposal is one of several possible steps to be taken to enhance the ability of

regulated entities to comply with the RPS in the timeframe indicated. Other steps that PacifiCorp believes are appropriate, such as promoting region-wide fungibility of compliance TRECs, are discussed elsewhere in these comments.

- (e) Impact on RPS compliance in the timeframe 2012-2020, (1) with the existing mandate of 20% of electricity sold at retail in California to be generated by eligible renewable resources by 2010, and (2) with a new mandate of 33% of electricity sold at retail in California to be generated by eligible renewable resources by 2020, with the current statutory framework for RPS otherwise unchanged.**

The straw proposal is one of several possible steps to be taken to enhance the ability of regulated entities to comply with the RPS in the timeframe indicated. Other steps that PacifiCorp believes are appropriate, such as promoting region-wide fungibility of compliance TRECs, are discussed elsewhere in these comments.

- (f) Impact on the development of a market for tradable RECs for RPS compliance.**

The straw proposal would have a positive impact by providing TRECs markets with a need for them to serve.

- (g) Impact on and integration with a possible market of tradable allowances for compliance with the Global Warming Solutions Act, Assembly Bill (AB) 32 (Nunez/Pavley), 2006 Stats. Ch. 488.**

If allowances are awarded to facilities based on their generating capacity, they would not overlap with RECs. However, to the extent RECs or generation from a renewable resource is a compliance tool, the generation from the renewable resource should sit on top of the compliance for low carbon, and not be an additional requirement.

Question 3: In order to evaluate the cost recovery section of the straw proposal, please comment on whether, if authorized by the Commission, an unbundled REC market for RPS compliance should be viewed as a commodity market, in which prices converge and each unit does not have a different intrinsic value?

If yes:

- **What factor(s) influence the commodity market price?**
- **What methodologies can be used to evaluate the reasonableness of a REC price from the ratepayer's perspective?**
- **Could the Commission practically implement the above proposed methodology? If not, what is the next best alternative approach?**

Yes. Supply and demand influence commodity market prices. The wider the market, and the more free from hidden regulatory costs, such as mandatory standard terms, complicated rules, or regulatory reviews, the more transparent the price signal created, and the more reasonable it would be to use that price signal as a methodology to determine the price - the balance of supply and demand- of the TRECs. The broader the market, the more sources of price quotation and market makers would be available, for the Commission to easily refer to and use.

Question 4: Please identify any aspects of the straw proposal that you consider unnecessary or duplicative, and briefly explain the basis of your views.

PacifiCorp suggests that any approval process that is recommended for TRECs contracts be amended to provide that approval is not required. Further, non-modifiable terms in TRECs purchase contracts should be avoided. Regulatory approvals and non-modifiable terms are barriers to contracting. In PacifiCorp's commercial experience in selling to California RPS compliance entities, the non-modifiable terms are added to contracts in which they may have no relevance, simply requiring greater resources than are otherwise necessary for contract review and negotiation. "Non-modifiable terms" require frequent updating as the markets drift beyond what was anticipated by the regulators and the stakeholders when they were written. Adding expense to the contracting process in the short run and the long run reduces fungibility and increases the cost of the commodity being purchased. The Commission should rely on its ability to review after the fact the prudence of any purchase, of TRECs, transmission wire or any other commodity or service acquired for the benefit of customers, but advance approval should be

optional.

Question 5: What elements, if any, in addition to those identified in the straw proposal would be necessary to create a market for tradable RECs and administer an RPS program that included tradable RECs, while advancing the goals of the RPS program and complying with the requirements of § 399.16? Please be specific and explain why each additional element would be necessary.

Such other elements are discussed in the comments herein and in PacifiCorp's pre-workshop comments, which include broad use of TRECs markets and fungibility of TRECs across compliance regimes.

Question 6: As noted in the Amended Scoping Memo, after a workshop on REC trading for RPS compliance, the parties will then have the opportunity to "comment on the desirability, or lack thereof, of adopting a system like one of those developed through the workshop process, or be able to make another proposal that could be contrasted in some detail with the previous possibilities." (pp. 4-5.)

- (a) If the straw proposal were adopted as set forth in Attachment E, would you recommend that the Commission authorize REC trading as a compliance tool for RPS compliance?**
- (b) If you would not recommend that the Commission authorize a REC trading regime as outlined in the straw proposal, please either develop an alternative REC trading proposal, or state and explain that your view that no REC trading regime would be satisfactory.**

Staff's straw proposal recommends the adoption of TRECs to be used to meet the compliance requirements of the RPS program. To this extent, PacifiCorp supports the general principles of the straw proposal. PacifiCorp reserves its right to make further comments on the straw proposal and any TRECs regime in the future.

III. CONCLUSION

For the foregoing reasons, PacifiCorp respectfully submits these post-workshop comments on TRECs and looks forward to working with Commission staff and other interested parties on this important issue.

Respectfully submitted this November 13, 2007, at San Francisco, California.

By /s/ Ryan L. Flynn

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CERTIFICATE OF SERVICE

I, Lisa Vieland, certify that I have on this 13th day of November 2007 caused a copy of the foregoing

POST-WORKSHOP COMMENTS OF PACIFICORP (U 901-E) ON TRADABLE RENEWABLE ENERGY CREDITS

to be served on all known parties to R.06-02-012, R.06-05-027, R.06-03-004, R.06-04-009 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13th day of November 2007 at San Francisco, California.

/s/ Lisa Vieland
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