



**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)
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R.06-02-012
(Filed February 16, 2006)

**POST-WORKSHOP COMMENTS OF
CALPINEPOWERAMERICA-CA, LLC and CALPINE CORPORATION
ON TRADABLE RENEWABLE ENERGY CREDITS**

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November 13, 2007

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Pursuant to the October 16, 2007 ruling of Administrative Law Judge Simon (“October 16, 2007 Ruling”), CalpinePowerAmerica-CA, LLC (“CalpinePowerAmerica”) and Calpine Corporation (collectively, “Calpine Parties”) submit these post-workshop comments on tradable renewable energy credits (“RECs”). The October 16 Ruling includes a significant number of specific questions addressing basic market structure, compliance issues, and changes to the standard terms and conditions for Renewables Portfolio Standard (“RPS”) contracts.

Calpine is a leading California producer of renewable energy. Production from Calpine’s Geysers geothermal facilities exceeded 7,000 GWhs in 2006, representing approximately 20 percent of the total renewable energy produced in-state - making Calpine a key supplier of renewable energy for RPS compliance purposes. CalpinePowerAmerica is a small energy service provider. Thus, the Calpine Parties provide the perspective of both a load serving entity (“LSE”) subject to RPS requirements and a renewable energy producer.

As discussed in CalpinePowerAmerica’s pre-workshop comments, the Calpine Parties support the development of a competitive REC market that is fair and efficient, and believe such a market can be a valuable tool in helping California achieve its long-term renewable energy goals.

I. BASICS OF A TRADABLE REC MARKET

(1)(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.

As a general matter, Calpine agrees with the statement that tradable RECs will not affect the current factors that limit new renewable projects. However, in a poorly designed market, tradable RECs could have the unintended consequence of adding an additional limiting factor to the development of new renewable energy resources because of the uncertainty created by such a market. Uncertainty is a barrier to investment and the boom/bust cycle inherent in the spot tradable REC market, as discussed by Dr Weiss, could add uncertainty to the life cycle value of new investments in renewable resources. This risk will become more significant if investor owned utilities (“IOUs”) and other large LSEs decide to procure most (rather than a residual amount) of their RPS obligations from a spot tradable REC market. In such a case, investors will have to rely on the volatile price signals from this spot market for RECs in order to recover their investments and the uncertainty created by that bimodal pricing outcome could make funding of such projects more difficult.

In addition to infrastructure, permitting, and in-state delivery issues, a price cap – as proposed by Staff for short- and long-term REC contracts could be a barrier to new renewable development. The \$35/REC price cap proposed in the Straw Proposal is based on recent contracts for renewable energy and does not take into account rising costs of new supplies. In addition, such a price cap ignores that the cost to develop new renewable resources going forward will increase as the best locations for renewable development are developed.

Furthermore, while a \$35/REC price cap may seem high relative to recent transactions, such transactions are not necessarily indicative of forward pricing for renewable resources nor

capture the costs of complying with a 33% RPS requirement. Moreover, the consequences of setting a cap too low could be significant – resulting in insufficient renewable generation being built and driving up the price of tradable RECs in the spot market.

In contrast to a price cap, the competitive solicitation process and subsequent bilateral negotiations – along with the Commission’s existing oversight and approval of RPS contracts – will better ensure least cost procurement without distorting the cost of new renewable development. In addition, the \$50/REC penalty rate included in the Straw Proposal provides an additional cost mitigation mechanism. Having said this, given the difficulty in knowing what a reasonable penalty should be and given the goals of the RPS, the Commission should establish a flexible mechanism to enable the penalty rate to adjust annually to reflect the progress made towards RPS goals.

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

A well designed tradable REC market will provide buyers and sellers with additional contracting flexibility. Nevertheless, to ensure sufficient renewable resources are developed, the primary mechanism for compliance with RPS obligations should be through long-term RPS contracts and forward REC contracts.

(1)(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).

Currently, most potential sources of tradable RECs are held by the IOUs. Thus, if the IOUs do not have excess RECs available to trade in a tradable REC market, smaller LSEs will not benefit from the existence of such a market. According to the IOUs’ 2006 RPS compliance filings, only San Diego Gas & Electric Company (“SDG&E”) had an annual procurement

surplus (231,227 MWhs)¹ and, as a result, would have had the potential to supply excess RECs to a market.

(1)(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.

This question suggests that the imbalance will result from demand also being greater than supply. However, in any given year, there may be excess RECs available that could be sold into a tradable REC market, as opposed to “banking” the surplus. As noted above, SDG&E procured a surplus of renewable power relative to its annual RPS obligation in 2006.

(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). Please be specific.

Although in any given year, surplus RECs may be available for trading, it is unlikely that a *significant* amount of tradable RECs will be available in the 2008 – 2011 timeframe because a substantial portion of existing renewable generation (*i.e.*, the REC “supply”) already has existing contractual obligations that would likely keep the RECs out of a tradable REC market.

(5) Please comment on Dr. Weiss' assessment of the elasticity of RPS demand and supply curves.

As general matter, Dr Weiss’ assessment that a tradable REC market will inherently display a boom/bust cycle is essentially correct, although the *exact* shape of the demand curve may vary with the underlying assumptions. For example, IOUs will have an incentive to drive the price of RECs above the penalty rate if shareholders bear the cost of the penalty but ratepayers bear the cost of REC purchases.

¹ *Order Instituting Rulemaking on Renewable Portfolio Standard Program*, R.06-05-027, SDG&E Compliance Report at Attachment A (September 12, 2007).

While results may be slightly different if “banking” is allowed, banking would not fully mitigate the boom/bust cycle inherent in a tradable REC market because banking only provides a limited means for hedging market volatility and in the supply constrained market that currently exists (and which will likely continue for the foreseeable future), there are very few opportunities to bank RECs.

(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?

As discussed above, when demand exceeds supply, the price of tradable RECs will tend to move to, or above, the penalty rate.

(6)(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 RPS contracts?

No. While there is likely some relationship between the short-term REC price and the price of long-term bundled RPS contracts, prices in long-term contracts should reflect the contracting parties' view of the value and price of RECs over the full term of the contract. In addition, prices for bundled RPS contracts are likely to be capped by the costs of bringing new generation to the market, whereas the more volatile spot price for tradable RECs will reflect the short run (investment constrained) availability of RECs as described by Dr. Weiss.

(6)(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?

As the Staff Straw Proposal notes, RPS compliance costs are passed through to ratepayers;² thus, as a general matter, ratepayers will be impacted by the cost of RECs purchased in the spot market. Furthermore, because ratepayers are responsible for compliance costs, IOUs

² October 16, 2007 Ruling, Attachment E at 6.

have an incentive to pay more for RECs than the penalty amount (*i.e.*, non-compliance costs), which would be paid by shareholders.

(7) Dr. Weiss presents an analysis of REC markets showing a bimodal pricing distribution, colloquially referred to as “boom-bust” pricing.

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

The potential for boom/bust pricing to arise increases if there is an over reliance on the spot tradable REC market to meet RPS requirements. Accordingly, the tradable REC market should be limited to short-term transactions that essentially involve the reallocation of RECs among LSEs and that the primary means of meeting RPS obligations should be long-term contracts for renewable power and long-term forward REC contracts.

(7)(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. New generation facilities in general and renewable projects in particular cannot be financed without the existence of a long-term power purchase agreement, which could include a long-term contract for RECs. Thus, the unbundling of RECs separate from the underlying power could provide another mechanism whereby developers may be able to finance new projects. Given financing realities, the primary purpose of a spot REC market should be to facilitate the efficient *reallocation* of existing RECs held by LSEs. A tradable REC market will not provide reliable investment signals, particularly given the boom/bust potential of the prices coming from that market.

(7)(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**
- (iii) Either (i) or (ii) depending on whether the timeframe considered is 2008-2011 or 2012-2020; or (iv) both (i) and (ii).**

As discussed above, tradable RECs can be a useful mechanism for enabling LSEs to reallocate RECs among themselves to achieve a more efficient distribution for RPS compliance purposes on a year-to-year basis. However, if the IOUs and large LSEs predominantly rely on RECs to meet their RPS obligations – particularly in the near-term - it could adversely impact the development of new renewable resources that will be needed to meet the State’s RPS goals over the long-term.

To ensure that the tradable REC market provides allocative efficiency, without adversely affecting investment decisions of renewable developers, the Commission should require a significant percentage of the RPS obligations of the IOUs and large LSEs to be met through long-term contracts for renewable energy or long-term forward contracts for RECs. Requiring the IOUs and large LSEs to meet a significant percentage of their RPS obligations through long-term contractual arrangements will help ensure that sufficient renewable energy development will occur over the next 12 years to meet the State’s 33% RPS goal by 2020.

II. STAFF STRAW PROPOSAL

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

Limits on Use of Tradable RECs

As discussed above, the primary purpose of a spot tradable REC market should be to enable the efficient reallocation of existing RECs among LSEs. In this respect, the market serves a short run, or static, efficiency purpose. In contrast, dynamic or investment efficiency is best served by long-term contracting. Thus, long-term RPS goals will be best served by a system that depends predominantly on long-term contracts for existing and new renewable generation. Accordingly, spot market purchases of tradable RECs should be limited to a small percentage of an obligated IOU's or large LSE's annual procurement target and the vast majority of an IOU's annual procurement target should be met through long-term contracts for bundled energy or RECs.

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

Market Participants

Calpine agrees with the Straw Proposal that no limits should be placed on market participation. Maximizing participation will add depth to the market and allow for more robust participation.

(2) In order to evaluate the TREC usage limits section of the straw proposal, please comment on whether the minimum quota proposal would help:

(2)(a) maintain a focus on new renewable infrastructure development;

The minimum quota proposed in the Staff Straw Proposal is an inefficient and ineffective way to ensure sufficient new renewable energy resources are built. As discussed above, the primary purpose of a spot tradable REC market should be to enable the efficient reallocation of existing RECs among LSEs. In contrast, long-term RPS goals will be best served by a system

that depends predominantly on long-term contracts for existing and new renewable generation.

The minimum quota of the straw proposal is inadequate to the purpose of promoting the development of more renewable resources, particularly over the next 12 years as the state heads toward a 33% RPS.

- (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?**

Dr Weiss' analysis shows that, at the simplest level, the price of tradable RECs will be set at the level that balances demand and supply. But the analysis is complicated by the unusual shape of the demand curve, which reflects the parameters of regulation. In Dr Weiss' model, the price will be either at the floor price or the penalty rate. This outcome may be affected by whether ratepayers or shareholders bear the burden of any penalty. If shareholders are responsible for penalties, the IOUs will have an economic incentive to avoid the penalty and pay the REC price, even if it is above the penalty rate, which, in a market with short supply, could push the cost of tradable RECs to very high levels.

The analysis would be further complicated if "Green Attributes"³ are bundled with the renewable attributes that make up a REC. In such instances, the price of the tradable REC would include the value of avoided greenhouse gas ("GHG") emissions in addition to the renewable

³ The California Energy Commission's current definition of "Green Attributes" includes but is not limited to: "(1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; [and] (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere."

attribute. As discussed below, Green Attributes associated with renewable generation should not be *de facto* included as part of a REC.

III. REC ATTRIBUTES

- (3) **Should a REC include avoided carbon emissions associated with conventional generation displaced by the renewable generation giving rise to the REC? As a policy matter, why or why not? Please include all factual information necessary to support the policy choice expressed. Identify any assumptions or predictions about AB 32 that are related to the policy preference expressed (e.g., “In a load-based regulatory framework in which emissions reductions from RPS compliance are included in the cap...”)** Please also make clear what definition of "avoided emissions" is being used in the response.

Calpine believes that that policy is better served by separating renewable attributes from Green Attributes when defining a tradable REC.

Separating renewable attributes from Green Attributes when defining a tradable REC is consistent with the Commission’s approach to RPS and climate change initiatives.

Fundamentally, these attributes should be separated because the Commission’s policy with respect to each of these initiatives has a different regulatory objective. Furthermore, and perhaps most importantly as it relates to a tradable REC market, there will likely be different markets for renewable and Green attributes.⁴ For instance, because only LSEs are subject to RPS requirements, the market for tradable RECs is necessarily limited to LSEs. In contrast, because many more types of entities will be required to meet GHG reduction goals under Assembly Bill (“AB”) 32, the market for Green Attributes is potentially much larger, cutting across many sectors of the economy. Given these different markets and likely market participants, bundling Green and renewable attributes could result in economic inefficiencies and increase compliance costs as entities who only need renewable attributes for RPS compliance purposes may, in effect,

⁴ As the October 16, 2007 Ruling notes, a decision has *not* been made about the final design of the AB32 compliance framework, including whether a cap and trade system will be implemented. October 16, 2007 Ruling at 9, note 9.

be forced to acquire bundled Green attributes (and vice versa). The net effect would be an increase in RPS compliance costs and the potential reduction of Green Attributes available to entities subject to AB 32.

- (4) In view of the current uncertainties associated with the implementation of AB 32, what are the potential pitfalls, if any, both for the RPS program itself and the interaction of RPS with potential GHG regulatory methods, of determining that a tradable REC used for compliance with the California RPS includes avoided carbon emissions? Of determining that a REC does not include avoided carbon emissions?**

As discussed above, bundling Green and renewable attributes could result in economic inefficiencies and increase overall compliance costs.

IV. STANDARD TERMS AND CONDITIONS

- (1) What changes, if any, should be made in the standard terms and conditions set forth in Attachment D-2 to reflect and/or accommodate the policy preference and legal analysis set forth in your responses to questions 1-6 in Section 3?**

For the reasons stated above, Green Attributes should not be bundled with renewable attributes in a REC. To make this point clear, and ensure that Green and renewable attributes are treated separately, the proposed new Section 3.4 to the Standard Terms and Conditions should be deleted and all references to environmental attributes should be removed from the definition of a REC.

Dated: November 13, 2007

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CERTIFICATE OF SERVICE

I, Robin Huey, certify:

I am employed in the City and County of San Francisco, California, am over eighteen years of age and am not a party to the within entitled cause. My business address is 505 Montgomery Street, Suite 800, San Francisco, California 94111.

On November 13, 2007, I caused the following to be served:

**POST-WORKSHOP COMMENTS OF
CALPINEPOWERAMERICA-CA, LLC and CALPINE CORPORATION
ON TRADABLE RENEWABLE ENERGY CREDITS**

by electronic distribution or U.S. Mail to all parties on the attached service lists of R.06-02-012, R.06-05-027, R.06-03-004, and R.06-04-009.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on the date above at San Francisco, California.

/s/ Robin Huey
Robin Huey

cc: Commissioner Michael R. Peevey (via U.S. Mail)
ALJ Anne E. Simon (via U.S. Mail and Email)
ALJ Burton Mattson (via U.S. Mail and Email)
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Service List R.06-02-012, R.06-05-027, R.06-03-004, and R.06-04-009 (via U.S. Mail or Email)

CALIFORNIA PUBLIC UTILITIES COMMISSION

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