



**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 REPLY COMMENTS OF
SUSTAINABLE CONSERVATION,
CALIFORNIA FARM BUREAU FEDERATION, AND
INLAND EMPIRE UTILITIES AGENCY
ON
TRADABLE RENEWABLE ENERGY CREDITS**

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FOR Sustainable Conservation

I. INTRODUCTION

In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (“CPUC”) and the October 16, 2007 and November 21, 2007 rulings of Administrative Law Judge Simon, Sustainable Conservation, the California Farm Bureau Federation, and the Inland Empire Utilities Agency (“Parties”) submit these reply comments on tradable renewable energy credits (“RECs”) and on REC attributes. In Opening Comments submitted November 13, within the discussion topic of REC Attributes, Parties recommended a distinction be made between RECs that are used by utilities and other load-serving entities to meet renewable portfolio standard (“RPS”) obligations, and RECs that accrue to renewable distributed generation technology. It was not an isolated recommendation. A number of parties recognized that an important distinction should be made here to ensure that going forward all affected parties have a clear sense of the opportunities that will ensure meeting goals for RPS compliance and compliance with AB 32. A key step in drawing this distinction is the revision of the CPUC’s definition of “green attributes,” which revision could be accomplished through *ex parte* filings or through workshops.

II. CONSISTENT WITH A WIDE VARIETY OF COMMENTS SUBMITTED, THE DEFINITION OF GREEN ATTRIBUTES SHOULD BE REVISED

Parties have argued for over a year, in many proceedings, that the definition of green attributes should be revised and the Commission must create clarity between renewable energy credits and greenhouse gas emission reduction credits.¹ The level of

¹ See, for example, *Comments of Sustainable Conservation on Draft Decision of ALJ Simon*, September 15, 2006, in R.06-02-012; *Opening Comments of Sustainable Conservation and RCM International on Assembly Bill 1969 Implementation Proposals*, May 2, 2007, in R.06-05-027; *Comments of Sustainable Conservation on Proposed Decision of ALJ Mattson on AB 1969 Implementation*, July 16, 2007, in R.06-05-027; *Comments of Sustainable Conservation, California Farm Bureau Federation, Inland Empire*

agreement among those who submitted comments in this round reinforces the important opportunity the CPUC has created in addressing the issues outlined in ALJ Simon's rulings. The consistent message by various stakeholders demonstrates the need to find a more refined, consistent, and workable definition than had been necessary prior to the passage of AB 32.

“In short, unbundled RECs used for the purposes of RPS compliance should be entirely separate from compliance with the GHG emissions reduction goals established by AB 32. This approach not only makes the most sense, but also avoids many of the problems that would be caused by incorporating two separate regulatory compliance schemes (including a regulatory scheme that has yet to be developed) into one ‘commodity.’” (SCE Comments, page 17)

“A REC presents a kWh of energy delivered to the grid by an eligible renewable resource. Its function is to be used to measure against RPS compliance obligations. Mixing a REC with other statewide/federal mandates will (a) unnecessarily increase administrative complexity, (b) risk undermining the integrity of the RPS program (as well as other ‘mandated programs’), and (c) undermine public support. Keep them separate.” (Independent Energy Producers Comments, page 19)

“In establishing the TREC market, SDG&E submits that the Commission should take this opportunity to clarify that RECs and emissions offsets are two separate products – not a singled bundled product – that can trade separately. The definition of Green Attributes should reflect this by removing references to emissions offsets and Green Tags.” (SDG&E Comments, page 20)

A number of other stakeholders also recognize the challenges in reconciling a definition of RECs that will both facilitate trading (with the necessity to isolate

Utilities Agency, Green Power Institute, and RCM International Regarding Implementation of Tariffs/Standard Contracts for Small Customers, August 16, 2007, in R.06-05-027; *Comments of Sustainable Conservation on Allocation of Greenhouse Gas Emission Allowances*, October 31, 2007, in R.06-04-009.

attributes) and be responsive to requirements associated with greenhouse gas policies, albeit not as directly as those cited above.²

Furthermore, as noted by the Green Power Institute and EcoSecurities, the current definition of “Green Attributes” may be too vague (GPI Comments, p. 11, EcoSecurities Comments, pp. 6-9) to respond to changing markets for individually tradable environmental benefits. As various new tradable markets emerge for distributed generation customers (greenhouse gases, particulate matter, etc) in the coming years, it is important that the definition and appropriative ownership of certain attributes be clearly outlined to respond to these nascent tradable markets that could include specific air or water pollutants. To facilitate this, current Commission policy that all attributes and/or RECs that accrue “behind the meter” are exclusively retained by the customer generator should be explicitly clarified. Additionally, unless the excess sales agreement explicitly compensates a specific “unbundled” environmental attribute (such as greenhouse gas emissions), ownership of environmental attributes associated with energy exported to the utility should also be retained by the customer generator.

Consistent with the various comments, Parties support much of the revised definition of Green Attributes proposed by SDG&E, and some elements of the proposed definition of RECs proposed by SCE. The revisions limit the expansive nature of the current definition and the potential for unintended impacts on property and product ownership rights. Ideally the term, “Green Attributes,” which has no basis in law, should be eliminated. The CPUC should consider using the original meaning of the term RECs to only include the renewable energy value and not other environmental attributes.

² See, for example, comments filed by the Alliance for Retail Markets/ Western Power Trading Forum, Calpine, EcoSecurities, Green Power Institute, TURN.

Additionally, as many parties, including The Green Power Institute (GPI Comments, page 12) noted in opening comments, there should be a small but important change to the revised definition by substitution of the term “biogas” for the current reference to “landfill gas” in the last sentence.³ It also may be constructive to reference the statutory definition of REC (PUC section 399.12(g)(1) and (2)) in conjunction with WREGIS as Green Power Institute has done with its proposed definition (p. 18).

The Commission should move quickly to revise the definition of green attributes and RECs, along the lines proposed by SDG&E, SCE, and Parties, with the revisions noted above. Alternatively, parties would support further discussion between the parties of this issue in a short workshop.

III. CONCLUSION

Numerous parties now agree with Sustainable Conservation, the California Farm Bureau Federation, and the Inland Empire Utilities Agency that the definition of RECs and renewable energy credits must be revised. Separate markets for greenhouse gas emissions reductions, including carbon, exist even now, as California develops implementation plans for Assembly Bill 32. The Commission should make clear that a REC or green attribute includes only the renewable value of the electricity that can be used for renewable portfolio standard compliance.

³ Sustainable Conservation and the Farm Bureau have argued this in other filings as well, as noted above.

Dated: December 5, 2007

Respectfully submitted,

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For SUSTAINABLE CONSERVATION

CERTIFICATE OF SERVICE

I, Jody London, certify that I have, on this date, caused the foregoing POST-WORKSHOP REPLY COMMENTS OF SUSTAINABLE CONSERVATION, CALIFORNIA FARM BUREAU FEDERATION, AND INLAND EMPIRE UTILITIES AGENCY ON TRADABLE RENEWABLE ENERGY CREDITS to be served by electronic mail, or for any party for which an electronic mail address has not been provided, by U.S. Mail on the parties listed on the Service List for the proceeding in California Public Utilities Commission Docket No. R.06-02-012, R.06-05-027, R.06-03-004, and R.06-04-009.

I declare under penalty of perjury, pursuant to the laws of the State of California, that the foregoing is true and correct.

Executed on December 5, 2007, in Oakland, California.

A handwritten signature in blue ink, appearing to read "Jody London", is written over a light blue rectangular background.

Jody London

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