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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

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

ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING SUPPLEMENTAL COMMENTS ON REPORTING AND COMPLIANCE REQUIREMENTS FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM

Background

On July 15, 2011, the Administrative Law Judge's Ruling Requesting Comments on New Procurement Targets and Certain Compliance Requirements for the Renewables Portfolio Standard Program asked parties to comment on the interpretation of several new statutory provisions in Senate Bill (SB) 2 (1X) (Simitian) Stats. 2011, ch. 1, on compliance with the California renewables portfolio standard (RPS). Comments were filed on August 30, 2011 and reply comments were filed on September 12, 2011. In Decision (D.) 11-12-020, the Commission set new RPS procurement quantity requirements. In D.11-12-052, the Commission implemented the new RPS procurement portfolio content categories established by SB 2 (1X). In these decisions, the Commission stated its intention to address expeditiously many additional RPS compliance issues that have been the subject of party comments.

Comments

It now appears that supplemental party comment on a small number of RPS reporting and compliance issues would be useful.

Comments should respond to the questions posed in this ruling. Comments should be as specific and precise as possible. Legal arguments should be supported with specific citations. All comments should use publicly available materials (for example, the public description of a transaction in a resolution adopted by the Commission). Parties may identify issues that are not addressed in the questions below; commenters doing so should clearly explain the relevance of the additional issue(s).

Opening comments of not more than 20 pages addressing the issues set forth in this ruling may be filed and served not later than February 10, 2012. Reply comments of not more than 10 pages may be filed and served not later than February 21, 2012.

Issues to Address in Comments

Please comment on the following, in accordance with the guidelines for comments set forth in this ruling.

1. Section 399.13(a)(3) requires that each retail seller must submit an annual RPS compliance report.¹
 - When should the annual RPS compliance report be submitted? Please consider at least the following in choosing a date for your proposal:
 - The information identified by Section 399.13(a)(3) as necessary for the compliance report;

¹ Section 399.13(a)(3) is attached as Attachment A.

- The RPS reporting and verification requirements of the California Energy Commission;
 - Any other reporting or information requirements that may be relevant to the RPS compliance reporting process. Please be specific.
 - What information should the annual RPS compliance report contain? Please consider both the requirements set out in Section 399.13(a)(3) and the information provided in compliance reports submitted through 2010.
2. In addition to the annual RPS compliance reporting requirement in Section 399.13(a)(3), should the Commission require an RPS progress report from retail sellers during the same calendar year? Please explain why or why not.
- If there should be a progress report, should it contain the same information as the annual compliance report?
 - If the information in the progress report should be different from the information in the annual report, please specify and explain your proposal.
3. In addition to the annual RPS compliance reporting requirement in Section 399.13(a)(3), should the Commission require a separate report on compliance for an entire compliance period?
- If not, please explain why not and identify how the Commission would receive information about the retail seller's attainment of the procurement requirements for a compliance period, as required by Section 399.15(b), as implemented by D.11-12-020.
 - If yes,
 - When should such a report be submitted? (For example, March 1 of the year following the end of the compliance period; for the first compliance period, that would be March 1, 2014.)
 - How should such a report present the quantities of the retail seller's RPS procurement for the compliance period?

4. Section 399.16(c) sets minimum percentages for procurement that meets the criteria of Section 399.16(b)(1) in each compliance period², as well as maximum percentages for procurement that meets the criteria of Section 399.16(b)(3) in each compliance period.³
 - Should the percentage requirements for procurement meeting the specified criteria be applied:
 - Annually?
 - For each compliance period as a whole?
 - Over some other time period?
5. Should the Commission require a particular format or time at which a “retail seller may apply to the Commission for a reduction of a procurement content requirement of subdivision [399.16](c),” in accordance with Section 399.16(e)?
 - If yes, please explain and provide a justification for the proposal.
 - If no, please explain how retail sellers would inform the Commission of a request under Section 399.16(e).

² Section 399.16(c)(1) provides:

Not less than 50 percent for the compliance period ending December 31, 2013, 65 percent for the compliance period ending December 31, 2016, and 75 percent thereafter of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010, shall meet the product content requirements of paragraph (1) of subdivision (b).

³ Section 399.16(c)(3) provides:

Not more than 25 percent for the compliance period ending December 31, 2013, 15 percent for the compliance period ending December 31, 2016, and 10 percent thereafter of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010, shall meet the product content requirements of paragraph (3) of subdivision (b).

6. How should the relationship between the minimum percentage requirement for procurement meeting the criteria of Section 399.16(c)(1) and the procurement quantity requirements for a compliance period be interpreted? Please discuss at least the following example:

A retail seller meets the RPS procurement quantity requirement of an average of 20 percent of its retail sales for the compliance period 2011-2013. During that compliance period, an average of 45 percent of the retail seller's RPS procurement associated with contracts executed after June 1, 2010, is from procurement meeting the criteria of Section 399.16(c)(1).

7. In D.11-12-052, the Commission noted that “some rules for the use of unbundled RECs set forth in D.10-03-021, as modified by D.11-01-025, are not affected by new § 399.16 and continue in force.” (D.11-12-052 at 55). Two of the rules prohibit the unbundling of RECs from contracts that have been “earmarked” to apply to a shortfall in a retail seller’s annual procurement target.

- How, if at all, should the prohibition on unbundling RECs from earmarked contracts now be applied to contracts for RPS procurement:
 - that were executed prior to June 1, 2010?
 - that were executed prior to January 1, 2011?
- How should the compliance reports required by Section 399.13(a)(3) account for the unbundling of RECs from previously earmarked contracts?

IT IS RULED that:

1. Comments of not more than 20 pages, addressing the issues identified in this ruling, may be filed and served not later than February 10, 2012.
2. Reply comments of not more than 10 pages may be filed and served not later than February 21, 2012.

ATTACHMENT A

ATTACHMENT A
Section 399.13(a)(3) of Public Utilities Code
(Enacted by Senate Bill 2 (1x), Stats. 2011, ch. 1)

(3) The commission shall direct each retail seller to prepare and submit an annual compliance report that includes all of the following:

(A) The current status and progress made during the prior year toward procurement of eligible renewable energy resources as a percentage of retail sales, including, if applicable, the status of any necessary siting and permitting approvals from federal, state, and local agencies for those eligible renewable energy resources procured by the retail seller, and the current status of compliance with the portfolio content requirements of subdivision (c) of Section 399.16, including procurement of eligible renewable energy resources located outside the state and within the WECC and unbundled renewable energy credits.

(B) If the retail seller is an electrical corporation, the current status and progress made during the prior year toward construction of, and upgrades to, transmission and distribution facilities and other electrical system components it owns to interconnect eligible renewable energy resources and to supply the electricity generated by those resources to load, including the status of planning, siting, and permitting transmission facilities by federal, state, and local agencies.

(C) Recommendations to remove impediments to making progress toward achieving the renewable energy resources procurement requirements established pursuant to this article.

(END OF ATTACHMENT A)