



**FILED**

09-04-08  
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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

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

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

**ADMINISTRATIVE LAW JUDGE'S RULING  
REQUESTING SUPPLEMENTAL COMMENTS ON THE USE OF  
TRADABLE RENEWABLE ENERGY CREDITS FOR THE RENEWABLES  
PORTFOLIO STANDARD PROGRAM**

**1. Background**

The Commission recently issued Decision (D.) 08-08-028, setting forth the definition and attributes of a renewable energy credit (REC) for compliance with the California renewables portfolio standard (RPS) program. In addition, since parties commented on the Energy Division staff straw proposal on the use of tradable renewable energy credits (TREC)s for RPS compliance, two other relevant documents have been issued by other state agencies:

1. The *Climate Change Draft Scoping Plan* (June 2008 Discussion Draft)<sup>1</sup> of the California Air Resources Board (ARB) was issued on June 26, 2008, as part of ARB's implementation of Assembly Bill (AB) 32 (Núñez/Pavley), Stats. 2006, ch. 488.

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<sup>1</sup> The *Draft Scoping Plan* may be found at <http://www.arb.ca.gov/cc/scopingplan/document/draftscopingplan.pdf>.

2. The *Renewables Portfolio Standard Eligibility Guidebook* (3d ed.) was issued by the California Energy Commission in December 2007.<sup>2</sup>

## **2. Request for Comments**

Since parties' comments on TRECs in this proceeding may have been based in part on assumptions about RECs or related issues that are not currently accurate, it may aid the Commission's decision on the use of TRECs for RPS compliance to allow parties to present brief comments and reply comments responding to these developments. It will also be helpful to have parties' views on possible conforming changes to RPS contract standard terms and conditions (STCs), as noted in D.08-08-028.

Energy Division staff has prepared questions to guide comments. The questions are attached as Attachment A. The staff straw proposal on the use of TRECs for RPS compliance, originally circulated with the Administrative Law Judge's Ruling Requesting Post-Workshop Comments on Tradable Renewable Energy Credits (October 16, 2007) is attached for the convenience of the parties as Attachment B.

In order to focus on only those issues currently relevant, comments should address only the questions posed in Attachment A. In doing so, comments should not repeat positions or analysis presented in prior comments on TRECs.

Comments of not more than 15 pages (plus no more than 15 pages of germane attachments) may be filed and served not later than September 12, 2008. Reply comments of not more than 10 pages (plus no more than 10 pages of

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<sup>2</sup> The *RPS Eligibility Guidebook* may be found at <http://www.energy.ca.gov/2007publications/CEC-300-2007-006/CEC-300-2007-006-ED3-CMF.PDF>.



**ATTACHMENT A  
ENERGY DIVISION QUESTIONS**

**A. TRECs Usage Limits (See page 1 of Straw Proposal)**

1. Identify the reason(s) why the Commission should or should not implement a quantitative limit on the use of tradable RECs (TRECs). Please consider and discuss whether a limit on the use of TRECs would:
  - Promote in-state and/or new renewable energy development
  - Reduce or increase overall demand and/or price for TRECs
  - Prevent or induce disruption to the current RPS procurement program
  - Maintain or reduce the hedging benefit of the RPS program
  - Reduce or enhance REC market liquidity
  - Dampen or encourage the development of a REC market
  - Other relevant considerations
2. Propose a metric to be used to develop a limit on the use of TRECs, and justify the proposal based on your response to Question 1. Examples of metrics include:
  - TRECs as a percentage of total renewable portfolio
  - TRECs as a percentage of annual RPS procurement
  - Minimum quantity of long-term and/or new facility TREC contracts before short term existing TREC contracts
3. Should a TRECs limit be different for different classes of LSEs? Why or why not?
4. Discuss the quantitative analysis underlying your responses. Consider, for example, the estimated capacity of renewable resources in California vs. out of state, of new vs. existing renewable capacity, of available transmission capacity, and/or other analytic considerations.
5. Should a TRECs limit take into consideration the effect of procuring TRECs (as opposed to bundled contracts) on a retail seller's portfolio, on system reliability, and/or achieving greenhouse gas policy goals? If yes, propose how this can be achieved. If not, explain why these considerations are not needed or desirable.

## **B. Cost Recovery (See pages 6-7 of Straw Proposal)**

### Review Process

1. Propose contract review and approval processes for REC-only contracts executed by all investor-owned utilities. Please discuss whether the processes should differ for:
  - contracts of different term lengths. Please identify what, if any, term length threshold should be used.
  - the three large IOUs (PG&E, SCE, and SDG&E), small utilities, and multi-jurisdictional utilities.

### Price Evaluation Criteria

2. The straw proposal includes a \$35/MWh cost cap on the total price that could be paid by regulated utilities for a REC used for RPS compliance. Is this proposed amount a reasonable reflection of compliance market prices for TRECs from new and/or existing renewable energy facilities in the WECC?
3. How, if at all, would the price evaluation proposal be affected by different TRECs Usage Limit rules? If you advocate a change in the Usage Limits rule in the straw proposal, what, if any, change should be made to the price evaluation criterion?

## **C. Standard Terms and Conditions (STCs)**

1. Propose STCs for REC-only contracts.
2. Propose any changes to the current STCs<sup>3</sup> for bundled power needed only to coordinate with the proposed REC-only contract STCs. Proposals to change current STCs for any other reasons will be disregarded.

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<sup>3</sup> See D.08-04-009 and D.08-08-028.

**D. RECs from Generation Facilities not Subject to a GHG Cap**

D.08-08-028 includes (at fn. 59) a discussion of a potential scenario raised by parties in which, after California has a cap on greenhouse gas (GHG) emissions, an RPS-eligible generator in an uncapped region sells a REC to a California LSE without the delivery of any associated energy to California.

1. Should the Commission recommend to ARB that, if such a scenario were to eventuate, the REC should be allowed to be used for both RPS compliance and AB 32 compliance purposes.
2. How, if at all, does your answer to the first question affect any other responses to these questions.

**E. Other Issues**

Please comment and provide modifications on any other aspects of the Straw Proposal that should be revised in light of recent developments that may affect a TREC market.

**(END OF ATTACHMENT A)**

**INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service list (also served on R.08-08-009, R.06-04-009 and R.08-03-008).

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated September 4, 2008, at San Francisco, California.

/s/ FANNIE SID

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Fannie Sid