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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 PRE-WORKSHOP COMMENTS ON TRADABLE
RENEWABLE ENERGY CREDITS**

Request for Pre-Workshop Comments

Energy Division staff has scheduled a workshop on the possible use of tradable renewable energy credits (RECs) for compliance with California's renewables portfolio standard (RPS). The workshop will take place on September 5-7, 2007. Staff will separately circulate scheduling and location information and a proposed agenda for the workshop.

The purpose of this ruling is to solicit pre-workshop comments that will aid in developing the agenda and guiding the discussion at the workshop, as well as making more efficient use of the workshop by allowing parties to be familiar with each other's preliminary views prior to the workshop. Pre-workshop comments, not longer than 40 pages, may be filed and served, in accordance with the instructions in this ruling. Comments must be filed and

served not later than August 10, 2007; reply comments, not longer than 25 pages, must be filed and served not later than August 23, 2007.¹

Background

The RPS program was initiated by Senate Bill (SB) 1078 (Sher), Stats. 2002, ch. 516.² In Decision (D.) 02-10-062, a comprehensive decision about utility procurement issued in Rulemaking (R.) 01-10-024, the Commission also addressed preparing for RPS implementation. The Commission asked for comments on how to implement the RPS program, including whether the Commission should consider inter-utility trading of RECs.

These comments were addressed in D.03-06-071, the order initiating implementation of the RPS program. The Commission concluded that, in view of the imminent statutory deadline for commencing the RPS program, consideration of REC trading should be deferred. The decision left open the possibility that a REC trading system might be implemented in the future, but noted that the creation of such a system would raise a number of significant issues.

¹ Attachments to comments must come to no more than 35 pages; attachments to reply comments must come to no more than 20 pages. All attachments must be germane to comments and the connection of the material in any attachments to the comments must be specifically made in the text of the comments or reply comments.

² RPS legislation is codified at Pub. Util. Code §§ 399.11-399.20. Unless otherwise indicated, all subsequent citations to sections refer to the Public Utilities Code, and all citations to rules refer to the Commission's Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations.

The issue of tradable RECs has been revisited, but not resolved, on several occasions.³ The Assigned Commissioner's Ruling and Scoping Memo,⁴ issued in R.04-04-026, asked for comments on allowing the use of tradable RECs for RPS compliance. In D.05-11-025, the Commission indicated its interest in further exploration of the use of tradable RECs.

In R.06-02-012, the Order Instituting Rulemaking for this proceeding, the Commission identified issues related to tradable RECs as an important component of this proceeding. The Scoping Memo and Ruling of Assigned Commissioner (April 28, 2006) set out a number of issues related to tradable RECs, and assigned them to the second portion of this proceeding. Comments on the staff white paper "Renewable Energy Certificates and the California Renewables Portfolio Standard Program" (REC white paper) were filed in May 2006. In D.06-10-019, the Commission decided not to authorize the use of unbundled (but not tradable) RECs for RPS compliance at that time.⁵

³ It would be helpful if parties that have previously filed comments or briefs addressing REC trading include in their pre-workshop comments or attachments a list with the title, date filed, and proceeding number of their prior REC trading filings.

⁴ http://www.cpuc.ca.gov/word_pdf/RULINGS/42320.doc

⁵ The REC white paper explains the distinction as follows:

Under an unbundled REC regime, claim over the renewable attributes of energy produced by eligible renewable technologies can be transferred from the renewable generator to one LSE while the energy is delivered to another. However, once this transfer occurs, claim over the attributes cannot be resold. In contrast, under a tradable REC regime, although the concept of selling the energy and claim over the attributes to different parties remains intact, RECs may be transferred from the renewable generator to any third party, not just obligated LSEs. In addition, these attributes can be resold subsequent to the initial sale. REC white paper, p. 1, n. 1.

The Amended Scoping Memo and Ruling of Assigned Commissioner (December 29, 2006) (Amended Scoping Memo) set out the tasks for the balance of this proceeding, in light of prior work and the enactment of SB 107 (Simitian), Stats. 2006, ch. 464. Exploring the use of tradable RECs for RPS compliance was among the highest priorities. The Amended Scoping Memo identified three areas of work related to tradable RECs:

- Exploring the use of tradable RECs for RPS compliance by all RPS-obligated LSEs, including determining what attributes should be included in a REC;
- Determining the appropriate treatment of RECs associated with energy generated by renewable customer-side distributed generation, after examination of two important issues – measurement of renewable output from customer-side distributed generation, and analysis of the impact of ratepayer subsidies of renewable distributed generation – in R. 06-03-004; and
- Determining the status of RECs associated with renewable energy generated by qualifying facilities (QFs) under contract with California utilities.⁶

Some of these issues have been resolved. SB 107 defined the attributes of a tradable REC and resolved the status of RECs for renewable energy generated by QFs.⁷ In D.07-01-018, issued in R.06-03-004, the Commission determined that RECs associated with customer-side renewable distributed generation belong to

⁶ Items 5, 7, and 8, Amended Scoping Memo, pp. 2-3.

⁷ Section 399.12(g) (attributes); § 399.16(a)(5), (6) (QFs). The complete text of § 399.16 is attached hereto as Attachment A.

the system owner. The remaining issue is the overarching one: the use of tradable RECs for RPS compliance.

Guidance for Comments

Because of the importance and complexity of the issues involved, this ruling provides a number of suggestions for the structure and content of pre-workshop comments and reply comments. Commenters should not construe these suggestions as requirements, but should address the subjects set out here. Commenters may address these subjects by presenting narrative proposals for REC trading (comprehensive or partial), or identifying issues related to potential REC trading, or simply answering the questions developed by staff, below, or any combination of these approaches. Commenters with similar views are encouraged to present joint comments or reply comments. Comments that are specific and provide factual information will be most useful in preparing for the workshop.

Commenters are reminded that the use of tradable RECs for RPS compliance is authorized, but not required, by § 399.16. The workshop is intended, as noted in the Amended Scoping Memo, to

develop a common understanding of what a tradable REC regime might entail, were the Commission to adopt one. Parties might come to a consensus about the design of a potential tradable REC system, or might simply be able to limit the number of possibilities under consideration. They could then 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. (Pages 4-5.)

Parties will have additional opportunity after the workshop to develop and present arguments about whether the Commission should adopt a system of

tradable RECs for RPS compliance at all, and if so, what features a tradable REC system should have; whether an evidentiary hearing is necessary; and other issues relevant to a potential Commission decision on the use of REC trading for RPS compliance.

To aid in the preparation of pre-workshop comments and in structuring the workshop, staff has developed a set of proposed guiding principles for evaluating REC trading proposals, a list of questions addressing different aspects of REC trading, and a list of documents on the subject matter. The principles and questions follow; the document list is attached as Attachment B.⁸

A. Proposed Guiding Principles

Please comment on the following guiding principles proposed by staff. Comments may address the proposals individually or as a group, focusing on the value of the principles for evaluating proposals for the use of REC trading for RPS compliance.

1. Use of REC trading for RPS compliance should be consistent with the legislative goals for the RPS program.⁹

⁸ The document list is selective and meant as an aid to preparing comments and to undertaking further research. Neither the listing nor failure to list a particular work should be construed as endorsement or disagreement with the work by staff or the Commission.

⁹ Section 399.11 sets out the legislative findings and declarations:

(a) In order to attain a target of generating 20% of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2010, and for the purposes of increasing the diversity, reliability, public health and environmental benefits of the energy mix, it is the intent of the Legislature that the commission and the State Energy Resources Conservation and Development Commission implement the California Renewables Portfolio Standard Program described in this article.

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2. REC trading should result in minimal disruption to the current RPS program.
3. REC trading should not increase the cost of RPS compliance in the near term, and should lower the cost of RPS compliance over the longer term.
4. REC trading should promote development of new infrastructure in California and neighboring states for renewable energy generation.
5. REC trading rules, guidelines, and policies should not be inconsistent with the development of a regional REC trading regime.

(b) Increasing California's reliance on eligible renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) The development of eligible renewable energy resources and the delivery of the electricity generated by those resources to customers in California may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Resources Program administered by the State Energy Resources Conservation and Development Commission and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(e) New and modified electric transmission facilities may be necessary to facilitate the state achieving its renewables portfolio standard targets.

This section, enacted in SB 107, differs slightly from the section enacted in SB 1078, principally by setting the date of December 31, 2010 for the 20% target and by adding subsection (e).

6. REC trading rules, guidelines, and policies should take account of the process of implementing California's greenhouse gas (GHG) reduction policy and the potential for federal programs for GHG reduction.
7. REC trading rules, guidelines, and policies should meet the Commission's requirements for REC trading set out in D.03-06-071.¹⁰
8. REC trading rules, guidelines, and policies should be simple, transparent, easily administered, uniformly applied, and equitable to all LSEs.

B. Specific Questions for Consideration

Staff has proposed the following questions covering various aspects of a potential REC trading regime. Please use the questions to inform your comments, either by responding to the questions directly, or by addressing the issues raised by the questions in a more narrative format.

1. Comparing REC Trading With Current RPS Procurement Methods

A variety of procurement methods are currently authorized in the RPS program, both through statutory provisions and Commission decisions. These include:

¹⁰ In D.03-06-071, at p. 10, the Commission stated that:

we will need a clear showing that a REC trading system would be consistent with the specific goals of SB 1078, would not create or exacerbate environmental justice problems, and would not dilute the environmental benefits provided by renewable generation. Our recent experience in California with electricity markets has also sensitized us to issues of market manipulation, and we would want to be sure that a REC trading system could not be gamed to the detriment of the residents of California.

- Long-term contracts (§ 399.14(a)(4));
 - Short-term contracts (§ 399.14(b), D.06-10-019, D.07-05-028);
 - Contracts having curtailability as an attribute (D.05-07-039);
 - Contracts with delivery at any point in California (D.06-05-039);
 - Contracts that include firmed or shaped products (Pub. Res. Code § 25741(a), Pub. Util. Code § 399.12(a), D.06-10-019);
 - Contracts that are “repackaged” from larger contracts of specific types (D.07-05-028);
 - Contracts entered into by a procurement entity (§ 399.14(f), D.07-05-028);
and
 - RPS-eligible generation owned by the LSE (§ 399.12(e), D. 06-05-039).¹¹
- a. Commenters should briefly summarize their experience (or, for commenters other than LSEs, the experience of others) with each of these mechanisms. Identify how, if at all, REC trading is likely to provide more flexibility, be less costly, or otherwise improve RPS compliance, or, if to the contrary, how REC trading is likely to provide less flexibility, be more costly, or otherwise to impede RPS compliance.
 - b. LSE commenters should estimate, very roughly, how much of their RPS procurement for the period 2007-2010 will be obtained using each of the above methods.¹²

¹¹ In addition, the multi-jurisdictional utilities covered by § 399.17 may use electricity purchased from certain out-of-state generation resources to comply with California RPS obligations. § 399.17(b).

¹² For example, 30% long-term contracts with shaped/firmed products; 20% long-term contracts not shaped/firmed delivered anywhere in California; 30% long-term contracts not shaped/firmed delivered to LSE's service territory; 10% long-term curtailable contracts; 10% short-term contracts.

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- c. Would REC trading be likely to completely or partially supersede any of the mechanisms listed above? How?

2. Evaluating REC Trading for RPS Compliance

A number of issues regarding REC trading systems have been identified in published works and in proceedings before this Commission and the California Energy Commission (CEC). Please comment on those issues set out below in light of the guiding principles and the commenter's experience (or the documented experience of others). Comments that are specific and are supported by real-life examples will be most useful. Comments should take into account the status and capabilities of the Western Renewable Energy Generation Information System (WREGIS). See §§ 399.13, 399.16(a)(1); www.wregis.org.¹³

- a. How, if at all, will REC trading aid in overcoming transmission congestion on existing transmission lines with respect to RPS-eligible generation?
- b. How, if at all, will REC trading increase the likelihood that LSEs will attain their annual procurement targets (APTs) for RPS compliance in timely fashion?
- c. How, if at all, will REC trading increase the efficiency of LSEs' RPS compliance activities?
- d. How, if at all, will REC trading aid in increasing renewable distributed generation in California? What barriers, if any, exist to integrating REC trading with renewable distributed generation?

¹³ The WREGIS Operating Rules may be found at www.wregis.org in the "Documents" section.

- e. How, if at all, will REC trading aid in increasing renewable generation generally in California? In neighboring states?
- f. How, if at all, will REC trading aid in increasing transmission infrastructure for renewable generation in California? In neighboring states?
- g. How, if at all, will REC trading affect the costs of RPS compliance in the period 2007-2010? In the period 2010-2015?
- h. What sources of tradable RECs are likely to be available to California RPS-obligated LSEs in the period 2007-2010? In the period 2010-2015? Please take into account the specific requirements of § 399.16(a).
- i. How, if at all, would the approach to the above issues change if a formal, enforceable RPS goal that 33% of electricity sold at retail in California must be from eligible renewable resources by the end of 2020 were to be adopted?
- j. What additional issues, if any, are relevant in evaluating REC trading for RPS compliance?

3. Establishing REC Trading Rules

Using tradable RECs for RPS compliance requires the development of mechanisms for exchanging tradable RECs. A market (however organized) for tradable RECs would require rules and procedures. Assuming that WREGIS will be an element of any REC trading mechanism, please comment on those issues set out below in light of the guiding principles and the commenter's experience (or the documented experience of others). Comments that are specific and are supported by real-life examples will be most useful.

- a. Who should be able to participate in a market for RECs used for compliance with the California RPS? (*E.g.*, only RPS-obligated

- LSEs; only LSEs and renewable generators; anyone; etc.) Should there be any limits or requirements on any types of participants?
- b. What steps, if any, should be taken to maximize the opportunities for owners of solar distributed generation systems that are funded through the California Solar Initiative to participate in a REC trading market for RPS compliance?
 - c. Should there be a limit on the quantity of tradable RECs that can be used by LSEs for RPS compliance? Should the limit be different for different classes of LSEs.? How should such a limit, if any, be determined? (See § 399.16(a)(7).)
 - d. Should tradable RECs have an "expiration date" (*e.g.*, three years after the electricity with which the REC is associated was generated)?
 - e. Should RPS-obligated LSEs be able to "bank" tradable RECs without limitation as to quantity? If not, what should the quantity limitations be?
 - f. Should RPS-obligated LSEs be able to "bank" tradable RECs without temporal limitations? If not, what should the temporal limitations be?
 - g. Should non-LSE participants in a market for RECs used for compliance with the California RPS be able to hold RECs without limitation as to quantity? If not, what should the quantity limitations be?
 - h. Should non-LSE participants in a market for RECs used for compliance with the California RPS be able to hold RECs without temporal limitations? If not, what should the temporal limitations be?
 - i. Should contracts of particular lengths be required for some or all of the REC purchases to be used for RPS compliance? What

- lengths? What proportion of REC purchases, if any, should be subject to such requirements?
- j. What steps, if any, other than contract length requirements should be taken by the Commission to encourage long-term REC purchases?
 - k. Should RECs be allowed to be traded for RPS compliance that are associated with electricity from RPS contracts already approved by the Commission? How would such RECs be disaggregated and tracked?
 - l. Should RECs be allowed to be traded for RPS compliance that are associated with electricity from RPS contracts already approved by the Commission? How would such RECs be disaggregated and tracked?
 - m. Should RECs be allowed to be used for RPS compliance only if the electricity with which they are associated has come from currently operational renewable generators?
 - n. Bearing in mind that WREGIS does not allow the creation of RECs until the associated electricity is generated, by what mechanism, if any, can purchases of RECs to be used for RPS compliance for which the associated electricity will be generated in the future be allowed?
 - o. What, if any, limit should be put on the proportion of an LSE's APT that can be met with the use of tradable RECs? How should such a limit, if any, be determined?
 - p. How can liquidity be maintained in a tradable REC market for California RPS compliance? What steps to maintain liquidity should be taken by the Commission? What steps to maintain liquidity should be taken by other actors? (Identify each actor and its appropriate role.)

- q. Should a tradable REC market for California RPS compliance include a separate entity with “watchdog” functions, such as an advisory committee or oversight group? How would such a group be established? Who should be eligible to be a member of such a group? What entity or entities should choose the members of such a group?

4. Coordinating with State and Regional REC Trading Policies and GHG Policies

- **Regional REC Trading**

WREGIS is designed to accept RECs from throughout the Western Electricity Coordinating Council (WECC) region. States within the WECC that have mandates for the use of renewable energy include Arizona, Colorado, Montana, Nevada, New Mexico, Oregon, and Washington.

- a. What elements of a REC trading system are most important for coordination of a California REC trading system for RPS compliance with a possible regional REC trading system (*e.g.*, REC definition, who may participate in the market, etc.)?
- b. What steps, if any, should be taken in the design of a California REC trading system for RPS compliance to allow later coordination with a possible regional REC trading system?
- c. Should REC trading for California RPS compliance be implemented only as part of a regional REC trading system?

- **Greenhouse Gases**

The Global Warming Solutions Act, Assembly Bill (AB) 32 (Nuñez/Pavley), 2006 Stats. ch. 488, set the state's policy to halt and reverse the increase in emissions of GHG that contribute to climate change. AB 32 gives primary responsibility for implementation of the law to the Air Resources Board (CARB), but this Commission and the CEC are responsible for providing design recommendations for the energy sectors. See R.06-04-009. AB 32 allows, but

does not require, the use of a "cap and trade" mechanism as an implementation tool. The Market Advisory Committee appointed by the Secretary for Environmental Protection has released its *Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California* (June 30, 2007).¹⁴ Bearing in mind that neither this Commission nor CARB has made any decisions, even preliminary, about any system for GHG reduction that includes trading, please address the following issues:

- a. What elements of a REC trading system are most important for coordination with a possible GHG cap and trade system (*e.g.*, REC definition, who may participate in the market, etc.)?
- b. What are the advantages and disadvantages, from the perspective of development of renewable generation, to having both a REC trading system and a GHG cap and trade system? Will different benefits be achieved by each, or would such a situation be redundant? If you had to choose, which system would you prioritize? On what basis?
- c. What steps, if any, should be taken in the design of a REC trading system to allow later coordination with a possible GHG cap and trade system?
- d. What steps might be required later to allow coordination with a possible GHG cap and trade system (*e.g.*, development of technology-specific emissions factors, development of emissions conversion factors, revisions to RPS compliance requirements, etc.)?
- e. Should REC trading for RPS compliance be implemented only as part of a possible cap and trade system for GHG?

¹⁴ Available at http://www.climatechange.ca.gov/policies/market_advisory.html.

- **Possible Federal Programs**

Legislation related to both a national RPS and a national GHG reduction program has been introduced in the U.S. Congress, but not enacted.

- a. What elements of a REC trading system are most important for coordination with a possible federal RPS?
- b. What elements of a REC trading system are most important for coordination with a possible federal GHG program?

5. Administration and Compliance

The use of tradable RECs for RPS compliance will implicate existing methods of administering the RPS program, determining cost recovery, determining compliance, and undertaking enforcement if necessary.

- **Cost Recovery**

The cost recovery for investor-owned utilities (IOUs) for RPS procurement costs for bundled long-term energy contracts resulting from a competitive solicitation is currently based on the market price referent (MPR) established by the Commission pursuant to § 399.15(c). See § 399.14(g). Certain costs above the MPR may be recovered by the renewable generator through supplemental energy payments (SEPs) administered by the CEC. See § 399.13(e). SEPs are not available for the purchase of RECs. See Pub. Res. Code § 25743(b)(1)(G)(i). Section 399.16(b) allows IOUs to recover in rates "the reasonable costs of purchasing renewable energy credits."

- a. How should the reasonable cost of REC purchases be determined? Should this method vary depending on the length of the contract or any other REC purchase contract attribute? Please be specific about the elements of any proposed process and/or information necessary to determine the reasonable cost of REC purchases. If relevant, identify any other states where the proposed process has been used.

- b. How often should the determination of reasonable cost be made? Annually? Monthly? Some other interval?
- c. Should Commission staff make individual determinations of the reasonableness of all REC purchases, analogous to the contract approval process for RPS energy procurement? If not, how should reasonableness be evaluated? (*E.g.*, REC purchases in contracts for fewer than X months at a price less than or equal to Y are deemed reasonable.) How often should such evaluations be made?
- d. Should the market price of RECs be presumed to be reasonable, subject to a price cap and/or a price floor? How would such price controls be determined? Should price controls change over time, or vary with other REC purchase contract attributes?

- **Compliance**

The current RPS flexible compliance regime has a number of components. These include: unlimited forward banking; three-year window for deferring compliance with shortfalls in actual deliveries of less than 25% of incremental procurement targets (IPT) without excuse; deferring compliance based on excuses for shortfalls in actual deliveries of more than 25% of IPT; "earmarking" of contracts for actual deliveries to apply to prior years' shortfalls before they apply to the APT of the year of delivery.

- a. How, if at all, could tradable RECs best be integrated with the current RPS procurement program based on bundled energy purchases and actual delivery of energy to RPS-obligated LSEs?
- b. How, if at all, could the use of tradable RECs for RPS compliance be integrated into the existing RPS flexible compliance regime?
- c. How, if at all, would REC trading for RPS compliance affect the obligations of certain multi-jurisdictional utilities set out in § 399.17?

- d. How, if at all, would REC trading for RPS compliance be affected by the compliance flexibility granted to certain multi-jurisdictional utilities in § 399.17?

● **Administration**

- a. If long-term contracts for tradable RECs for RPS compliance are developed and allowed to be used, should the viability of the generator of the electricity associated with a tradable REC be evaluated by Commission staff? How would such an evaluation be made?
- b. What documentation should the Commission require of an IOU's purchase price for RECs, whether through long-term contracts or shorter-term or spot purchases?
- c. Are there issues of confidentiality related to REC prices? Please be specific and relate the discussion to the decisions in the Commission's confidentiality proceeding, R. 05-06-040. How should any confidentiality issues be handled?

Participation and Service Requirements

Respondents in R.06-02-012 must *either* file and serve comments and/or reply comments *or*, not later than the date reply comments are due, file and serve a statement that the respondent does not intend to submit pre-workshop comments or reply comments. Other parties in R.06-02-012 may file and serve comments and/or reply comments.

This ruling is also being served on the service lists for R.06-05-027, R.06-03-004, and R.06-04-009. Participants in those proceedings may file pre-workshop comments and/or reply comments in this proceeding (R.06-02-012) without filing a separate request to become a party, but must comply with the requirements of Rule 1.4(b).

All pre-workshop comments, reply comments, or other submissions must be served on the service lists for R.06-02-012, R.06-05-027, R.06-03-004, and R.06-04-009. No matter what form of filing or service is used, paper copies of all comments, reply comments, or other submissions must be sent to Administrative Law Judge (ALJ) Simon at the time that service is made.

Several Commission proceedings relating to energy policy will have significant activity in late July and August. Every effort has been made to minimize direct conflicts in scheduling. Any request to change the schedule for comments or reply comments on the basis of conflicts with other Commission proceedings should be supported by several parties, and should demonstrate that the proposed change of date will not create new conflicts.

Any requests for extensions of time or other variations from the requirements of this order should be made at least two full business days prior to the original date for which the change is sought.

IT IS RULED that:

1. Pre-workshop comments of not more than 40 pages (plus no more than 35 pages of germane attachments) must be filed and served not later than August 10, 2007.
2. Reply comments of not more than 25 pages (plus no more than 20 pages of germane attachments) must be filed and served not later than August 23, 2007.
3. Respondents in R.06-02-012 must *either* file and serve comments and/or reply comments *or*, not later than the date reply comments are due, file and serve a statement that the respondent does not intend to submit pre-workshop comments or reply comments.

4. All documents must be served on the service lists of R.06-02-012, R.06-05-027, R.06-03-004, and R.06-04-009. Paper copies must be provided to ALJ Simon.

5. Participants in Commission proceedings other than R.06-02-012 may file pre-workshop comments and/or reply comments in this proceeding without filing a separate request to become a party, so long as they comply with the requirements of Rule 1.4(b).

Dated July 19, 2007, at San Francisco, California.

/s/ ANNE E. SIMON

Anne E. Simon
Administrative Law Judge

ATTACHMENT A

§ 399.16. Use of renewable energy credits to satisfy the requirements of the renewables portfolio standard

(a) The commission, by rule, may authorize the use of renewable energy credits to satisfy the requirements of the renewables portfolio standard established pursuant to this article, subject to the following conditions:

(1) Prior to authorizing any renewable energy credit to be used toward satisfying annual procurement targets, the commission and the Energy Commission shall conclude that the tracking system established pursuant to subdivision (c) of Section 399.13, is operational, is capable of independently verifying the electricity generated by an eligible renewable energy resource and delivered to the retail seller, and can ensure that renewable energy credits shall not be double counted by any seller of electricity within the service territory of the Western Electricity Coordinating Council (WECC).

(2) A renewable energy credit shall be counted only once for compliance with the renewables portfolio standard of this state or any other state, or for verifying retail product claims in this state or any other state.

(3) The electricity is delivered to a retail seller, the Independent System Operator, or a local publicly owned electric utility.

(4) All revenues received by an electrical corporation for the sale of a renewable energy credit shall be credited to the benefit of ratepayers.

(5) No renewable energy credits shall be created for electricity generated pursuant to any electricity purchase contract with a retail seller or a local publicly owned electric utility executed before January 1, 2005, unless the contract contains explicit terms and conditions specifying the ownership or disposition of those credits. Deliveries under those contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.13 and included in the baseline quantity of eligible renewable energy resources of the purchasing retail seller pursuant to Section 399.15.

(6) No renewable energy credits shall be created for electricity generated under any electricity purchase contract executed after January 1, 2005, pursuant to the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries under the electricity purchase contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.12 and count towards the renewables portfolio standard obligations of the purchasing retail seller.

(7) The commission may limit the quantity of renewable energy credits that may be procured unbundled from electricity generation by any retail seller, to meet the requirements of this article.

(8) No retail seller shall be obligated to procure renewable energy credits to satisfy the requirements of this article in the event that supplemental energy payments, in combination with the market prices approved by the commission, are insufficient to cover the above-market costs of long-term contracts, of more than 10 years' duration, with eligible renewable energy resources.

(9) Any additional condition that the commission determines is reasonable.

(b) The commission shall allow an electrical corporation to recover the reasonable costs of purchasing renewable energy credits in rates.

(END OF ATTACHMENT A)

ATTACHMENT B

SELECTED DOCUMENT LIST

I. General REC Information

Bolinger, Mark; Holt, Ed; Wisner, Ryan; Who Owns Renewable Energy Certificates? An Exploration of Policy Options and Practice; Lawrence Berkeley National Laboratory, LBNL-59965; April 2006;
<http://eetd.lbl.gov/ea/ems/reports/59965.pdf>

Ford, Andrew; Vogstad, Klaus; Flynn, Hilary ; Simulating price patterns for tradable green certificates to promote electricity generation from wind; Energy Policy, Volume 35, Issue 1 (Jan 2007) pp. 91-111; November 25, 2005; pp. 103-104, 108.

Hamrin, Jan; Wingate, Meredith; Regulator's Handbook on Tradable Renewable Certificates; Center for Resource Solutions; May 2003; available at:
<http://www.resource-solutions.org/policy/TRChandbook/index.htm>

Holt, Ed; Wisner, Ryan; The Treatment of Renewable Energy Certificates, Emissions Allowances, and Green Power Programs in State Renewables Portfolio Standards; Lawrence Berkeley National Laboratory, LBNL-62574; April 2007;
<http://eetd.lbl.gov/EA/EMP/reports/62574.pdf>

Pollack, Daniel; Tradable Renewable Energy Credits and the California Renewable Portfolio Standard; California Research Bureau; 05-002; June 2005;
<http://www.library.ca.gov/crb/05/02/05-002.pdf>

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II. Compliance

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(END OF ATTACHMENT B)

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list (also served on R.06-05-027, R.06-03-004 and R.06-04-009).

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/s/ FANNIE SID

Fannie Sid