

Decision 11-04-004 April 14, 2011

**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)

**DECISION DENYING PETITION FOR MODIFICATION  
OF DECISION 06-10-019**

**Summary**

This decision denies the request of San Diego Gas & Electric Company (SDG&E) to modify Decision (D.) 06-10-019 in order to allow the use of unbundled renewable energy credits (RECs) for compliance with California's renewables portfolio standard (RPS) program in certain circumstances. Because D.10-03-021 as modified by D.11-01-025 authorizes the use of tradable RECs for RPS compliance in general, the relief requested in SDG&E's petition for modification is not necessary.

**Procedural Background**

San Diego Gas & Electric Company (SDG&E) filed a Petition for Modification of D.06-10-019 (petition) on October 29, 2009. In its petition, SDG&E requests that the Commission modify Decision (D.) 06-10-019 to allow a utility to purchase renewable energy credits (RECs) separately from ("unbundled" from) the energy eligible for the California renewables portfolio standard (RPS) program that is associated with the RECs. The request arises from a particular circumstance: in some instances, the state Department of Water

Resources (DWR), acting under the authority granted by Water Code Section 80100 *et seq.*, contracted for the purchase of RPS-eligible energy for the benefit of a utility's customers, but DWR did not also contract for the purchase of the RECs associated with the energy delivered to the customers. Because the RECs did not accompany the energy, a utility desiring to use the generation to meet its RPS obligations could not do so.<sup>1</sup> SDG&E argues that a utility in that situation should be authorized to purchase the RECs, in addition to the energy for which DWR contracted.

The Division of Ratepayer Advocates (DRA) filed a response to the petition on November 30, 2009. DRA's response urged that the petition be denied or alternatively held in abeyance until the Commission made a more general decision about the use of RECs for RPS compliance. Southern California Edison Company (SCE) also filed a response to the petition on November 30, 2009, supporting the petition.

## **Discussion**

In D.06-10-019, the Commission both defined "unbundled RECs"<sup>2</sup> and concluded that it would not authorize the use of unbundled RECs for RPS compliance at that time.<sup>3</sup>

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<sup>1</sup> See Pub. Util. Code § 399.12(f).

<sup>2</sup> The Commission adopted the definition set out in a staff white paper, "Renewable Energy Certificates and the California Renewables Portfolio Standard Program" (April 20, 2006), available at <http://www.cpuc.ca.gov/Published/Report/55606.htm>. D.06-10-019 presented the definition as follows (at 33-34):

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 [load-serving entity] while the energy is delivered to another. However, once this transfer occurs, claim

*Footnote continued on next page*

On March 11, 2010, the Commission issued D.10-03-021. In that decision, the Commission authorized the use of tradable RECs (TRECs) by all RPS-obligated LSEs for compliance with their RPS procurement obligations. The Commission noted, consistent with the definitions provided in D.06-10-019, that the authorization for the use of TRECs is broader than the use of unbundled RECs that was rejected in D.06-10-019.<sup>4</sup>

In D.10-05-018, the Commission stayed D.10-03-021 pending resolution of two petitions for modification of D.10-03-021 that were filed in April 2010. The Commission modified D.10-03-021 and lifted the stay in D.11-01-025. This action reinstates the authorization of the use of TRECs set forth in D.10-03-021.

Through the general authorization of the use of TRECs, D.10-03-021, as modified by D.11-01-025, has granted all the relief that SDG&E requests in its petition. It is therefore unnecessary to address any of the arguments raised by SDG&E, DRA, or SCE in their respective pleadings. The petition should be denied because it is moot.

### **Comments on Proposed Decision**

The proposed decision (PD) of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public

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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. [Citation omitted.]

<sup>3</sup> D.06-10-019, Ordering Paragraph 23.

<sup>4</sup> D.10-03-021 at 8, fn.7.

Utilities Code and Rule 14.2(a) of the Commission's Rules of Practice and Procedure. Comments on the PD were filed by SDG&E on February 14, 2011. SCE filed reply comments on February 22, 2011. Both SDG&E and SCE urge the Commission to grant the relief requested by SDG&E. Their comments have been carefully considered, but no changes are made to the PD.

### **Assignment of Proceeding**

Michael R. Peevey is the assigned Commissioner and Burton W. Mattson and Anne E. Simon are the assigned ALJs in this proceeding.

### **Findings of Fact**

1. D.10-03-021, as modified by D.11-01-025, authorizes the use of TRECs for RPS compliance by all RPS-obligated LSEs.

### **Conclusions of Law**

1. Because the Commission has authorized the use of TRECs by all RPS-obligated LSEs, the specific relief requested in SDG&E's petition for modification of D.06-10-019 is not necessary.

2. SDG&E's petition for modification of D.06-10-019 should be denied because it is now moot.

3. In order to allow SDG&E to plan for its RPS procurement needs, this order should be effective immediately.

## **O R D E R**

**IT IS ORDERED** that:

1. The San Diego Gas & Electric Company (U902E) Petition for Modification of Decision 06-10-019, filed October 29, 2009, is denied.

2. Rulemaking 06-02-012 is closed.

This order is effective today.

Dated April 14, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK FERRON

Commissioners