

Decision 12-03-007 March 8, 2012

**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 OF CENTER FOR ENERGY  
EFFICIENCY AND RENEWABLE TECHNOLOGIES FOR THE  
MODIFICATION OF DECISION 11-01-025**

**1. Summary**

Because the enactment of Senate Bill 2 (1X) (Simitian), Stats. 2011, ch. 1, and the Commission's Decision (D.) 11-12-052 have resolved all issues raised in this petition for modification of D.11-01-025, the petition for modification is denied. This proceeding is closed.

**2. Procedural Background**

In Decision (D.) 11-01-025, the Commission denied, with the exception of one technical point, two applications for rehearing of D.10-03-021, and slightly modified D.10-03-021. As far as relevant here, D.10-03-021 authorizes the procurement and use of tradable renewable energy credits (TRECs) for compliance with the California renewables portfolio standard (RPS) program, and sets forth the structure and rules for a TREC market and for the integration of TRECs into the RPS flexible compliance system.

On February 14, 2011, the Center for Energy Efficiency and Renewable Technologies (CEERT) filed the Petition of the Center for Energy Efficiency and

Renewable Technologies for Modification of Decision 11-01-025 (Petition). No responses to the Petition were filed.

### **3. Discussion**

#### **3.1. CEERT's Requested Modifications**

CEERT seeks clarification, revision, or change of three ordering paragraphs (OP) of D.10-03-021, as modified by D.11-01-025, and proposes three new ordering paragraphs. CEERT proposes that:

1. OP 6 should be changed to expand the number of transactions that are classified as TREC transactions under D.10-03-021, as modified by D.11-01-025, that can be counted as bundled deliveries for purposes of RPS compliance;
2. OP 7, defining bundled transactions for RPS compliance, should be deleted;
3. OP 18 should be changed to expand the number of transactions that are not subject to the limitation on the use of TREC transactions;
4. An OP should be added to require the Director of Energy Division to publish a list of all previously approved contracts that are now classified as TREC under D.10-03-021, as modified by D.11-01-025, as well as specified information about each listed contract;
5. An OP should be added to require a process, culminating in a new Commission decision, to characterize all transactions that should be classified as TREC transactions under D.10-03-021, as modified by D.11-01-025.; and
6. An OP should be added requiring Energy Division staff to produce a report on the characterization of RPS procurement transactions using firm transmission arrangements by a date certain.

### **3.2. Subsequent Events**

Senate Bill (SB) 2 (1X) was signed by the Governor on April 12, 2011. Because SB 2 (1X) was enacted by the First Extraordinary Session of the Legislature, it became effective 90 days after the end of the special session in which it was enacted.<sup>1</sup> SB 2 (1X) went into effect December 10, 2011.

Among many other changes to the RPS program, SB 2 (1X) created a new classification of portfolio content categories. ( Pub. Util. Code § 399.16.)<sup>2</sup> In D.11-12-052, the Commission implemented the new portfolio content categories. The portfolio content categories in Section 399.16, as implemented by D.11-12-052, are different from the bundled/TREC classification of RPS procurement transactions made in D.10-03-021, as modified by D.11-01-025. SB 2 (1X) also provides that the new portfolio content categories apply to all RPS procurement contracts signed after June 1, 2010; contracts signed prior to that date are not subject to the portfolio content category requirements, if they meet certain basic requirements. (Section 399.16(d).) In view of the changes to RPS procurement made by the new portfolio content category requirements, the Commission also concluded that its direction to Energy Division to study the role of firm transmission in RPS procurement transactions was no longer necessary. (D.11-12-052, OP 10.)

Taken together, the changes made by new Section 399.16 and D.11-12-052 either resolve the issues CEERT has raised in its Petition or render them irrelevant, because of the institution of the new portfolio content categories.

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<sup>1</sup> See Gov't Code § 9600(a).

<sup>2</sup> Unless otherwise noted, all further references to sections are to the Public Utilities Code.

CEERT's requested alterations to D.11-01-025 are therefore moot, and the Petition should be denied.

#### **4. Comments on Proposed Decision**

The proposed decision of Administrative Law Judge (ALJ) Anne Simon in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 14.3 of the Rules of Practice and Procedure. No comments were filed.

#### **5. Assignment of Proceeding**

Mark J. Ferron is the assigned Commissioner and Anne E. Simon is the assigned ALJ for this proceeding.

#### **6. Findings of Fact**

1. SB 2 (1X) became effective December 10, 2011.
2. In D.11-12-052, the Commission implemented the new RPS portfolio content categories sets forth in SB 2 (1X).
3. In D.11-12-052, the Commission relieved the Director of Energy Division of the obligation imposed by OP 26 of D.10-03-021, as modified by D.11-01-025, to investigate and report on the place of firm transmission in procurement for RPS compliance.

#### **7. Conclusions of Law**

1. The implementation of the new RPS portfolio content categories set out in SB 2 (1X) has rendered moot all the contentions of CEERT's Petition related to the classification of RPS procurement transactions as bundled or TREC transactions.
2. The Commission's determination that the Director of Energy Division is relieved of the obligation imposed by OP 26 of D.10-03-021, as modified by D.11-01-025, to investigate and report on the place of firm transmission in procurement for RPS compliance has rendered moot the contentions of CEERT's

Petition related to the obligations of Energy Division staff to study and report on the role of firm transmission in RPS procurement.

3. In order to remove uncertainty about the status of RPS procurement under SB 2 (1X), this decision should be effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. The Petition of the Center for Energy Efficiency and Renewable Technologies for Modification of Decision 11-01-025, filed February 14, 2011, is denied.
2. Rulemaking 06-02-012 is closed.

This order is effective today.

Dated March 8, 2012, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
TIMOTHY ALAN SIMON  
MICHEL PETER FLORIO  
CATHERINE J.K. SANDOVAL  
MARK J. FERRON  
Commissioners