

Decision 07-05-057 May 24, 2007

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 06-05-027
(Filed May 25, 2006)

**ORDER MODIFYING DECISION 07-02-011
REGARDING DEFINITION OF GREEN ATTRIBUTES**

The Commission has been informed of a possible error in Decision (D.) 07-02-011 regarding the definition of Green Attributes. This order adopts an unopposed recommendation to correct the error.

1. Background

By letter dated April 17, 2007, four parties request correction pursuant to Rule 16.5 of the Commission's Rules of Practice and Procedure (Rules) of what they assert is an inadvertent editing error in D.07-02-011. The request was made jointly by Green Power Institute (GPI), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company, and The Utility Reform Network (collectively referenced herein as Joint Parties). The letter was sent to the Commission's Executive Director and served on the service list, consistent with Rule 16.5. No responses in opposition to the request have been received.

The possible inadvertent error involves the definition of "Green Attributes." In November 2006, the Commission sought comments from parties on potential changes, if any, that might need to be made to each applicant's Renewables Portfolio Standard model contract as a result of Senate Bill (SB) 107.

PG&E proposed changing the term “Environmental Attributes” to “Green Attributes,” with additional language to ensure conformance with SB 107. In relevant part to the matter addressed herein, PG&E proposed:

“Green Attributes include but are not limited to: ... (3) the reporting rights to these avoided emissions, including, without limitation, Green Tag Reporting Rights; (4) Renewable Energy Credits...”

In comments on PG&E’s proposal, GPI recommended simplifying the definition by combining certain terms. In relevant part, GPI recommended:

“Green Attributes include but are not limited to: ... (3) the reporting rights to these avoided emissions such as Green Tag Reporting Rights and Renewable Energy Credits.”

The Commission adopted GPI’s recommendation. (D.07-02-011, pp. 40-42.)

Joint Parties now contend the adopted simplification might be construed to apply an explanatory phrase relative to Green Tags (“avoided emissions”) as a restriction on renewable energy credits (renewable energy credits (RECs)—i.e., limiting RECs to avoided emissions). GPI, as a co-signer of the April 17, 2007 letter, states that it did not mean to change SB 107’s statutory definition of REC when recommending combination of the two clauses. Moreover, GPI says that, to the extent that the phrase can be construed as creating a limitation on RECs, it is simply an editing error.

2. Discussion

We disagree that this is an obvious typographical error or omission that is covered by Rule 16.5, and which may be corrected by Executive Director Order via delegated authority provided in Resolution A-4661. Rather, this was an exact and specific proposal of a party on the record, and was adopted with specific

comment as such in D.07-02-011. We therefore treat Joint Parties' April 17, 2007 request as a petition for modification of D.07-02-011.

Joint Parties are correct that the result represents a possible error. SB 107 amends the law to expressly provide that a REC "includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource..." (Pub. Util. Code § 399.12(g)(2).) If the language adopted in D.07-02-011 is read to mean that RECs could only result from "avoided emissions," which is an "environmental attribute," and not from any other "renewable attribute," the full scope of attributes intended for RECs by SB 107 would be inadvertently limited. This would be a clear and obvious conflict with new Pub. Util. Code § 399.12(g)(2), and this was not our intention. The error, however, is easily corrected by adopting the unopposed recommendation of Joint Parties, as set forth below.

3. Reduction in Comment Period on Proposed Decision

No hearing has been held in the proceeding, and this is an uncontested matter where the decision grants the relief requested. As a result, we may reduce or waive the comment period on the proposed decision. (Rule 14.6(c)(2).) The comment period was reduced. On May 8, 2007, the proposed decision of Administrative Law Judge (ALJ) Mattson was filed and served on parties. Pursuant to the shortened period, comments were due by May 15, 2007. No comments were filed.

4. Assignment of Proceeding

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

Findings of Fact

1. The Commission adopted a recommendation of GPI to modify a proposal of PG&E regarding the definition of Green Attributes.
2. GPI now states that it did not mean for its recommendation to change SB 107's statutory definition of RECs, and GPI joins three other parties in recommending a change.
3. There is no opposition to the recommended change.

Conclusions of Law

1. Joint Parties' April 17, 2007 request should be treated as a petition for modification of D.07-02-011 since the change is more than a correction of an obvious typographical error or omission within the scope of Rule 16.5.
2. The recommendation of Joint Parties to modify the definition of Green Attributes should be adopted.
3. This order should be effective today so the correction can be made for pending contracts without delay.

IT IS ORDERED that the definition of Green Attributes in Decision 07-02-011 (mimeo., p. 42) is corrected in relevant part from:

"Green Attributes include but are not limited to: ... (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits."

To:

“Green Attributes include but are not limited to Renewable Energy Credits, as well as: ... (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights.”

This order is effective today.

Dated May 24, 2007, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners