

Regulations, provides for Category 1 treatment of eligible renewable generation “scheduled . . . into a California balancing authority without substituting electricity from another source.”

The March 1 Proposed Regulations added the following restriction applicable to this subcategory of RPS procurement:

If there is a difference between the amount of electricity generated and the amount of electricity scheduled and delivered into a California balancing authority, only the lesser of the two amounts shall be classified as Portfolio Content Category 1.¹

CE Generation explained in its initial comments submitted April 16, 2013 (“April 16 Comments”), that the above “netting limitation” was inconsistent with the intent of SB 2 (1X), which was to address the issue of renewable energy scheduled *into* a California balancing authority area (“BAA”) from *outside* a California BAA, *i.e.*, to allow for out-of-state renewable generation to be counted as Category 1, but only if it could be scheduled into California without substitution from another non-renewable source. The intent of SB 2 (1X) that restrictions applicable to the “scheduled into a California BAA” subcategory be applicable to imports from out-of-state BAAs was, as CE Generation explained, correctly confirmed by the California Public Utilities Commission (“CPUC”) when it adopted regulations applicable to investor-owned utilities to implement the 33% RPS standard.²

CE Generation also explained that, because the full output of qualified renewable generation with its first point of interconnection to a California BAA already qualifies for Category 1 status under the first subcategory of Section 399.16 (b)(1)(A) and Section 3203 (a)(1)(C) of the proposed regulations, it would be inappropriate as a policy matter for in-state

¹ March 1 Proposed Regulations, Section 3203 (a)(1)(C).

² See CPUC, *Decision Implementing Portfolio Content Categories for the Renewables Portfolio Standard Program*, D.11-12-052 at 23 (2011) (specifically finding that, with respect to this subcategory of Category 1 generation “[t]he necessary implication” of the statutory language “is that the electricity is generated *outside the metered boundaries of a California balancing authority*) (emphasis added).

renewable resources, and procuring POUs to “lose” a portion of renewable generation actually generated within the State for purposes of compliance with the RPS.

To address this concern, CE Generation proposed the following modifications to Section 3203 (a)(1)(C):

(C) Electricity products from ~~the~~ an eligible renewable energy resource **located in a balancing authority that is not a California balancing authority** must be scheduled into a California balancing authority without substituting electricity from another source. . . . If there is a difference between the amount of electricity generated and the amount of electricity scheduled and delivered **from a balancing authority outside California** into a California balancing authority, only the lesser of the two amounts shall be classified as Portfolio Content Category 1.

2. Revisions in the 15-Day Language Proposal

In the 15-Day Language, the Commission proposes, among other things, to modify Section 3203 (a) to strike the words “at least” preceding the listing of four subcategories that qualify generation as Category 1.³ CE Generation supports this change, as it appropriately reflects that only one of the four subcategories must be met in order for generation to be Category 1 procurement. In the case of generation such as CE Generation’s geothermal facilities directly interconnected within the Imperial Irrigation District BAA, for example, this clarification should provide useful clarification that any California POU procuring CE Generation’s in-state renewable energy can fully count as Category 1 generation procured from CE Generation’s resources.

The Commission did not, however, adopt the specific clarifications proposed by CE Generation as part of the changes in the 15-Day Language. As discussed below, CE Generation continues to request further clarifying language to ensure proper application consistent with the

³ See 15-Day Language at p. 6, Section 3203(a)(1) (posted April 19, 2013).

intent of SB 2 (1X), as well as sensible renewables procurement policy from in-state generation in California.

B. Comments

CE Generation remains concerned that, without further clarification, in-state renewable generation may in some cases inappropriately have a portion of actual generation deducted or not counted as Category 1 RPS generation due to the proposed netting provision that would continue to be incorporated into Section 3203 (a)(1)(C) under the 15-Day Language. Without the added language CE Generation proposes—which clarifies specifically that the (a)(1)(C) subcategory address imports from out of state—potential POU offtakers located within a neighboring California BAA may incorrectly interpret the “netting limitation” in subcategory (C) as being applicable to renewable resources located within a California BAA (which generation fully qualifies under the (a)(1)(A) subcategory).

CE Generation acknowledges that the 15-Day Language does not necessarily lead to such a restrictive interpretation of the regulations particularly, as discussed above, after the proposed deletion of the “at least” language preceding that had preceded the four subcategories in Section 3203. CE Generation nonetheless urges the Commission to further modify Section 3203 (a)(1)(C) as set forth above, to help assure that in-state renewable generators are able to provide and make available the full output of their resources to assist California’s POUs in meeting RPS requirements.

As discussed in CE Generation’s April 16 Comments, such a clarification would bring the Commission’s regulations into alignment with the CPUC’s procurement policies for IOUs, which will help assure compliance uniformity among the State’s IOUs and POUs. Moreover, as both the Los Angeles Department of Water and Power (“LADWP”) and the Southern California

Public Power Authority (“SCCPA”) have noted in earlier comments, the netting limitation in subcategory (C) of Section 3203 could, if adopted, inadvertently encourage parties to overschedule transmission on ties between California BAAs, which could inefficiently tie up scarce transmission capacity.⁴

C. Conclusion

CE Generation urges either elimination of the netting limitation, or a further qualification of the limitation, as set forth above and in its April 16 Comments. Such a further modification to the 15-Day Language would (i) assure consistency with the CPUC’s interpretation of qualifying Category 1 generation, (ii) enhance uniformity and efficiency of RPS compliance as well as efficiency utilization of scarce transmission resources, and (iii) provide needed assurance that *all* of the generation produced by eligible renewable resources with a first point of interconnection to a California BAA will be appropriately counted as eligible to meet the State’s RPS.

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Respectfully submitted,

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⁴ See LADWP April 16 Comments at 11-12; SCPPA April 16 Comments at 6-7.