

**DOCKETED**

<b>Docket Number:</b>	16-RPS-03
<b>Project Title:</b>	Amendments to Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities
<b>TN #:</b>	233387
<b>Document Title:</b>	Steve Uhler Comments - RPS-16-03 Perhaps these words in statute are treated as superfluous
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## **RPS-16-03 Perhaps these words in statute are treated as superfluous**

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Please clarify the use of the below list of words, as some appear to be treated as superfluous.

Please provide the Energy Commission's definitions for the below list of words as the commission uses them, or not, in the express terms for the rulemaking proceeding docketed as Docket Number: 16-RPS-03, Project Title: Amendments to Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities, as TN #: 232930-3 Document Title: Express Terms Express Terms for Modification of Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities.

"count"

"double"

"electricity"

"participate"

"product"

"pursuant"

"retail"

"sales"

"seller"

"value"

Some of the above words are used in pairs in statute and express terms.

Of particular interest is when "electricity" is paired with "product", as in "electricity products". Where is the point at which the "electricity" enters the stream of commerce and becomes a marketable form of "product" for retail sale to retail end users? If the Energy Commission's definition differs from product liability law as it may apply to

electricity, please justify your definition. See *Fong v. Pacific Gas & Elec. Co.* (1988) 199 C.A.3d 30, 38, 245 C.R. 436 [rejecting contention that electricity had become a product since delivery lines had crossed plaintiffs' property line; test is whether it has been metered], Witkin. See <https://law.justia.com/cases/california/court-of-appeal/3d/199/30.html>

The word "count" appears in the express terms. The word "double" appears to be missing. What regulations specifying procedures for enforcement of ensuring that the tracking system established pursuant to subdivision (c) of Section 399.25, is operational, is capable of independently verifying that electricity earning the credit is generated by an eligible renewable energy resource, and can ensure that renewable energy credits shall not be double counted by any seller of electricity within the service territory of the WECC, pursuant to Public Utilities Code - PUC 399.21. (a) (1) as amended by SB350-20152016?

Has the definition of "value" used in the express terms been arrived at pursuant to Public Resources Code - PRC 25000.1. (c)?

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