DOCKETE	E D
Docket Number:	16-RPS-02
Project Title:	Appeal by Los Angeles Department of Water & Power re Renewables Portfolio Standard Certification Eligibility
TN #:	214305
Document Title:	LADWP Proposed Order on Objections To Exclude Evidence - Docket No. 16-RPS-02. 10-31-16
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STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:)	Docket No. 16-RPS-02
Appeal by LADWP re RPS Certification or Eligibility)	RE: [Proposed] Order on LADWP's Objections Filed Concurrently with Its
))	Notice of Motion and Motion to Exclude Documents and Supplemental
)	Declarations Submitted by CEC Staff
	/	Hearing Officer: Paul Kramer Subcommittee: Robert B. Weisenmiller, Ph.D.: David Hochschild

October 31, 2016

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OBJECTIONS TO DOCUMENTS AND DECLARATIONS OF CEC STAFF

<u>No.</u>	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
1.	Supplemental Declaration of	Submitted after		
	Christina Crume (TN213981)	September 21, 2016		
		briefing deadline		
2.	Energy Commission RPS	Submitted after		
	Certificate issued to PG&E's	September 21, 2016		
	Gateway Generating Station. (TN	briefing deadline; not		
	213978) (Supplemental	relevant		
	Declaration of Christina Crume,			
	¶ 4, (TN213981))			
3.	Energy Commission RPS	Submitted after		
	Certificate issued to SMUD's	September 21, 2016		
	Cosumnes Power Plant. (TN	briefing deadline; not		
	213969)	relevant		
	(Supplemental Declaration of			
	Christina Crume, ¶ 5,			
	(TN213981))			
4.	Energy Commission RPS	Submitted after		
	Certificate issued to Calpine's Los	September 21, 2016		
	Medanos Energy Center (TN	briefing deadline; not		
	213965). (Supplemental	relevant		
	Declaration of Christina Crume, ¶			
	6, (TN213981))			
5.	Energy Commission RPS	Submitted after		

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	Certificate issued to Calpine's	Submitted after		
	Pastoria Energy Facility. (TN	September 21, 2016		
	213964)	briefing deadline; not		
	(Supplemental Declaration of	relevant		
	Christina Crume, ¶ 7,			
	(TN213981))			
6.	Supplemental Declaration of	Submitted after		
	Christina Crume, ¶ 8, (TN213981)	September 21, 2016		
	p.2. "The Pastoria Energy Facility	briefing deadline; not		
	was certified under the Energy	relevant; lacks		
	Commission's RPS Eligibility	foundation; hearsay;		
	Guidebook, Third Edition,	conjecture; unsupported		
	however at the time the certificate	conclusions		
	was issued the RPS Eligibility			
	Guidebook, Fourth Edition, was			
	already in effect and a certificate			
	under the RPS Eligibility			
	Guidebook, Fourth Edition, was			
	issued to the applicant."			
7.	Supplemental Declaration of	Submitted after		
	Christina Crume, ¶ 9, (TN213981)	September 21, 2016		
	p.2. "The Los Medanos Energy	briefing deadline; not		
	Center was certified under the	relevant; lacks		
	Energy Commission's RPS	foundation; hearsay;		

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	Eligibility Guidebook, Third	conjecture; unsupported		
	Edition, however at the time the	conclusions		
	certificate was issued the RPS			
	Eligibility Guidebook, Fourth			
	Edition was already in effect and a			
	certificate under the RPS			
	Eligibility Guidebook, Fourth			
	Edition, was issued to the			
	applicant."			
8.	Supplemental Declaration of	Submitted after		
	Christina Crume, ¶ 10,	September 21, 2016		
	(TN213981) p.2. "The date on	briefing deadline; not		
	RPS Certificates issued by the	relevant; lacks		
	Energy Commission, to the	foundation; hearsay;		
	PG&E, SMUD and Calpine	conjecture; unsupported		
	facilities referenced above,	conclusions		
	indicated as the "Date Issued"			
	represents that date the certificate			
	was printed for Energy			
	Commission Staff signature and			
	may or may not be the date of			
	actual certification."			
9.	Supplemental Declaration of	Submitted after		
	Christina Crume, ¶ 11,	September 21, 2016		

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	(TN213981) p.2. "Energy	briefing deadline; not		
	Commission Staff refers to the	relevant; lacks		
	requirements in the Energy	foundation; hearsay;		
	Commission's RPS Eligibility	conjecture; unsupported		
	Guidebook, Second Edition	conclusions		
	(Second Edition Guidebook), and			
	RPS Eligibility Guidebook, Third			
	Edition (Third Edition			
	Guidebook), for the delivery of			
	biogas injected into a natural gas			
	transportation pipeline system and			
	delivered into California for use in			
	an electrical generation facility as			
	the "biomethane delivery			
	requirements.""			
10.	Supplemental Declaration of	Submitted after		
	Christina Crume, ¶ 12,	September 21, 2016		
	(TN213981) p.2. "Energy	briefing deadline; not		
	Commission staff applied the	relevant; lacks		
	"biomethane delivery	foundation; hearsay;		
	requirements" in the Third Edition	conjecture; unsupported		
	Guidebook to all applicants that	conclusions		
	applied for RPS certification under			
	the Third Edition Guidebook."			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
11.	Supplemental Declaration of	Submitted after		
	Christina Crume, ¶ 13,	September 21, 2016		
	(TN213981) p.2. "Energy	briefing deadline; not		
	Commission Staff certified four	relevant; lacks		
	facilities for the RPS under the	foundation; hearsay;		
	Third Edition Guidebook based on	conjecture; unsupported		
	the use of biogas injected into a	conclusions		
	natural gas transportation pipeline			
	system. These facilities are the			
	following: a. Gateway Generating			
	Station, RPS ID 60758A, owned			
	by Pacific Gas and Electric			
	Company (PG&E); b. Cosumnes			
	Power Plant, RPS ID 60760A,			
	owned by Sacramento Municipal			
	Utility District Financing			
	Authority (SMUD); c. Los			
	Medanos Energy Center, RPS ID			
	61048A, owned by Los Medanos			
	Energy Center, LLC (Calpine);			
	and d. Pastoria Energy Facility,			
	RPS ID 61064A, owned by			
	Pastoria Energy Facility, LLC			
	(Calpine). Energy Commission			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	staff subsequently changed the			
	RPS ID numbers for these			
	facilities to end with an "F"			
	instead of an "A.""			
12.	Supplemental Declaration of	Submitted after		
	Christina Crume, ¶ 14,	September 21, 2016		
	(TN213981) p.3. "Energy	briefing deadline; not		
	Commission Staff determined that	relevant; lacks		
	the PG&E, SMUD and Calpine	foundation; hearsay;		
	facilities referenced above	conjecture; unsupported		
	satisfied the "biomethane delivery	conclusions		
	requirements" under the Third			
	Edition Guidebook based on the			
	documentation submitted by the			
	applicants."			
13.	Supplemental Declaration of	Submitted after		
	Christina Crume, ¶ 15,	September 21, 2016		
	(TN213981) p.3. "Energy	briefing deadline; not		
	Commission Staff determined that	relevant; lacks		
	the documentation submitted by	foundation; hearsay;		
	LADWP for the RPS certification	conjecture; unsupported		
	of the Scattergood, Harbor, Valley	conclusions		
	and Haynes facilities, namely the			
	2009 Shell and Atmos			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	Agreements, did not show that the			
	biomethane procured under these			
	agreements satisfied the			
	"biomethane delivery			
	requirements" as those			
	requirements were interpreted and			
	applied to the applications of			
	PG&E, SMUD, and Calpine."			
14.	Supplemental Declaration of	Submitted after		
	Christina Crume, ¶ 16,	September 21, 2016		
	(TN213981) p.3. "LADWP	briefing deadline; not		
	submitted documentation to the	relevant; lacks		
	Energy Commission satisfying the	foundation; hearsay;		
	biomethane delivery requirements	conjecture; unsupported		
	as interpreted and applied by	conclusions		
	Energy Commission Staff under			
	the Third Edition Guidebook for			
	gas procured under the 2009 Shell			
	and Atmos Agreement through a			
	delivery contract path from Opal,			
	Wyoming to the delivery point in			
	California."			
15.	Supplemental Declaration of	Submitted after		
	Christina Crume, ¶ 17,	September 21, 2016		

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	(TN213981) p.3. "LADWP did	briefing deadline; not		
	not submit documentation to the	relevant; lacks		
	Energy Commission to show it	foundation; hearsay;		
	satisfied the biomethane delivery	conjecture; unsupported		
	requirements as interpreted and	conclusions		
	applied by CEC Staff under the			
	Third Edition Guidebook for gas			
	procured under the 2009 Shell and			
	Atmos Agreement from the point			
	of injection at the designated			
	landfills to Opal, Wyoming."			
16.	Calpine EIF KC biogas Purchase	Not relevant; lacks		
	Agreement 12-22-2010 (TN	foundation; hearsay;		
	213360) received from Calpine in	unable to authenticate as		
	response to an April 2012 Energy	to execution or delivery		
	Commission biomethane data	since it is a third party		
	request. (Declaration of Christina	contract where the CEC		
	Crume, ¶ 4, (TN213755))	is not a party to the		
		agreement; conjecture;		
		unsupported conclusions		
17.	CEC ED Denial of LADWP's	Duplicative of		
	Petition for Reconsideration dated	TN213427		
	December 22, 2015." TN213288.			
	Declaration of Christina Crume, ¶			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	6, (TN213755))			
18.	Declaration of Christina Crume, ¶	Lacks foundation;		
	10, (TN213755) p.2. "Exhibit	hearsay; unsupported		
	docketed as TN 213465 is a true	conclusions or opinions		
	and correct copy of the INGAA			
	Definitions printed from the			
	INGAA website on August 31,			
	2016."			
19.	Declaration of Christina Crume, ¶	Duplicative of		
	11, (TN213755) p.2. "Exhibit	TN213426		
	docketed as TN 213248 is a true			
	and correct copy of the LADWP			
	Biomethane related Petition for			
	Reconsideration dated March 28,			
	2014 received by the Energy			
	Commission from LADWP."			
20.	Declaration of Christina Crume, ¶	Lacks foundation;		
	12, (TN213755) p.2. "Exhibit	hearsay; unable to		
	docketed as TN 213342 is a true	authenticate as to		
	and correct copy of the LADWP	execution or delivery		
	Transaction Confirmation with	since it is a third party		
	Atmos Energy Marketing	contract where the CEC		
	Effective 9-1-2009 received by the	is not a party to the		
	Energy Commission from	agreement; conjecture;		

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	LADWP."	unsupported conclusions		
21.	Declaration of Christina Crume, ¶	Lacks foundation;		
	13, (TN213755) p.2. "Exhibit	hearsay; unable to		
	docketed as TN 213343 is a true	authenticate as to		
	and correct copy of the LADWP	execution or delivery		
	Transaction Confirmation with	since it is a third party		
	Shell Energy N. America, LP	contract where the CEC		
	Effective 8-1-2009 received by the	is not a party to the		
	Energy Commission from	agreement; conjecture;		
	LADWP."	unsupported conclusions		
22.	Declaration of Christina Crume, ¶	Lacks foundation;		
	15, (TN213755) p.2. "Exhibit	hearsay; unsupported		
	docketed as TN 213388 is a true	conclusions		
	and correct copy of the Map with			
	Wyoming received by the Energy			
	Commission from LADWP at in-			
	person meeting on February 23,			
	2016."			
23.	"PG&E Microgy Contract	Not relevant; lacks		
	executed February 2007 received	foundation; hearsay;		
	by the Energy Commission from	unable to authenticate as		
	PG&E in response to an April	to execution or delivery		
	2012 Energy Commission	since it is a third party		
	biomethane data request." TN	contract where the CEC		

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	213345 (Declaration of Christina	is not a party to the		
	Crume, ¶ 16, (TN213755))	agreement; conjecture;		
		unsupported conclusions		
24.	Declaration of Christina Crume, ¶	Not relevant; lacks		
	17, (TN213755) p.2. "Exhibit	foundation; hearsay;		
	docketed as TN 213467 is a true	unsupported conclusions		
	and correct copy of the Energy	(declaration fails to		
	Commission Renewables Portfolio	identify procurement		
	Standard 2008-2010 Procurement	verification duties)		
	Verification report, CEC-300-			
	2013-010-CMF, November 2013."			
25.	"SMUD Shell Transaction	Not relevant; lacks		
	Confirmation dated 3-30-2009	foundation; hearsay;		
	received by the Energy	unable to authenticate as		
	Commission from SMUD in	to execution or delivery		
	response to an April 2012 Energy	since it is a third party		
	Commission biomethane data	contract where the CEC		
	request." (TN 213364)	is not a party to the		
	(Declaration of Christina Crume, ¶	agreement; conjecture;		
	19, (TN213755))	unsupported conclusions		
26.	Declaration of Christina Crume, ¶	Lacks foundation;		
	20, (TN213755) p.3. "Exhibit	hearsay; unsupported		
	docketed as TN 213466 is a true	conclusions or opinions		
	and correct copy of the Spectra			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	Energy definitions printed from			
	the Spectra Energy website on			
	August 31, 2016."			
27.	"Supporting Letters from PG&E,	Lacks foundation;		
	Shell, and Others received by the	hearsay; unable to		
	Energy Commission from PG&E,	authenticate third party		
	Shell, and Calpine in connection	letters - where only one		
	with the applications for RPS	letter is addressed to the		
	certification." TN 213394.	CEC Staff; conjecture;		
	(Declaration of Christina Crume, ¶	unsupported conclusions		
	21, (TN213755) p.3.)	or opinions		
28.	Declaration of Christina Crume, ¶	Not relevant; lacks		
	22, (TN213755) p.3. "The	foundation; hearsay;		
	Renewables Portfolio Standard	speculation; conjecture;		
	unit has not received any	unsupported conclusions		
	communication from a POU using	or opinions		
	certified biomethane indicating			
	that meeting the RPS biomethane			
	use requirement prevented them			
	from meeting Federal Energy			
	Regulatory Commission natural			
	gas pipeline transportation			
	requirements."			
29.	Supplemental Declaration of	Submitted after		

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	Courtney Smith in its entirety	September 21, 2016		
		briefing deadline		
30.	Supplemental Declaration of	Submitted after		
	Courtney Smith, ¶ 5, (TN213980)	September 21, 2016		
	p.1. "Neither the Los Angeles	briefing deadline; Not		
	Department of Water and Power	relevant; lacks		
	(LADWP) nor Powerex Corp has	foundation; hearsay;		
	applied to the CEC to certify any	speculation; conjecture;		
	of the BC Hydro "facilities," as	unsupported conclusions		
	designated in LADWP contracts	or opinions		
	BP 05-020-A (TN 212419) and BP			
	05-020-B (TN 212420), as an			
	eligible renewable energy resource			
	for the RPS."			
31.	CEC's adopted RPS Eligibility	Submitted after		
	Guidebook, Sixth Edition, CEC-	September 21, 2016		
	300-2012-006-CMF. (TN	briefing deadline; Not		
	213904).	relevant		
	(Supplemental Declaration of			
	Courtney Smith, ¶ 6, (TN213980))			
32.	Certificate 60758A Gateway	Not relevant; Lacks		
	Generating Station (TN213066)	foundation; hearsay		
33.	Certificate 60760A Consumnes	Not relevant; Lacks		
	Power Plant (TN213963)	foundation; hearsay		

California Energy Commission Staff Statement of Disputed Facts

<u>No.</u>	Material Objected To:	Grounds for Objection:	Sustained:	Denied:
Disputed	 Material Facts – RPS Eligibility of			
(Number	rs correspond to the numbering of th	ne Staff's disputed facts)		
34.	1. and 41. SB 1078 ("SB 1078")	Legal statements and		
	added Article 16	conclusions which are		
	(commencing with section 399.11)	for briefing not for		
	to chapter 2.3 of part 1 of Division	"disputed facts" to be		
	1 of the Public Utilities Code	ruled on as "evidence."		
	("PUC"), entitled the "California			
	Renewables Portfolio Standard			
	Program."			
35.	2. and 41. SB 1078 established the	Legal statements and		
	state's Renewables Portfolio	conclusions which are		
	Standard ("RPS") and required	for briefing not for		
	retail sellers, including electrical	"disputed facts" to be		
	corporations, electric service	ruled on as "evidence."		
	providers, and community choice			
	aggregators, to increase their			
	procurement of eligible renewable			
	energy resources.			
36.	3. and 41. SB 1078 defined the	Legal statements and		

<u>No.</u>	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	term "retail seller" to include an	conclusions which are		
	electrical corporation, a	for briefing not for		
	community choice aggregator, and	"disputed facts" to be		
	an electric service provider, but	ruled on as "evidence."		
	not a local publicly owned electric			
	utility ("POU").			
37.	4. and 41. Senate Bill 107 ("SB	Legal statements and		
	107") amended the RPS statute for	conclusions which are		
	retail sellers and POUs and	for briefing not for		
	became effective on January 1,	"disputed facts" to be		
	2007.	ruled on as "evidence."		
38.	5. SB 107 amended PUC section	Legal statements and		
	399.15 (b)(1) to accelerate the	conclusions which are		
	RPS procurement target for retail	for briefing not for		
	sellers, and required retail sellers	"disputed facts" to be		
	to increase their total procurement	ruled on as "evidence;"		
	of eligible renewable energy	not relevant		
	resources by at least an additional			
	1 percent of retail sales per year so			
	that 20 percent of retail sales are			
	procured from eligible renewable			

Material Objected To:	Grounds for	Sustained:	Denied:
	Objection:		
energy resources by December 31,			
2010.			
6. SBX1-2 included express	Unsupported legal		
language evincing the	conclusions or opinions;		
Legislature's intent that the law be	hearsay; lacks		
applied starting January 1, 2011.	foundation		
6. SBX1-2 added PUC sections	Legal argument and		
399.15(b)(1) and 399.30(b)(1)	conclusions which are		
which establishes requirements for	for briefing not for		
retail sellers and POUs,	"disputed facts" to be		
respectively, to procure minimum	ruled on as "evidence."		
quantities of eligible renewable			
energy resources for each of			
several multi-year compliance			
periods, with			
the first compliance period			
beginning on			
January 1, 2011, and ending			
December 31, 2013. SBX1-2 also			
added PUC section 399.16(c),			
	energy resources by December 31, 2010. 6. SBX1-2 included express language evincing the Legislature's intent that the law be applied starting January 1, 2011. 6. SBX1-2 added PUC sections 399.15(b)(1) and 399.30(b)(1) which establishes requirements for retail sellers and POUs, respectively, to procure minimum quantities of eligible renewable energy resources for each of several multi-year compliance periods, with the first compliance period beginning on January 1, 2011, and ending December 31, 2013. SBX1-2 also	energy resources by December 31, 2010. 6. SBX1-2 included express	energy resources by December 31, 2010. 6. SBX1-2 included express language evincing the Legislature's intent that the law be applied starting January 1, 2011. 6. SBX1-2 added PUC sections 399.15(b)(1) and 399.30(b)(1) which establishes requirements for retail sellers and POUs, respectively, to procure minimum quantities of eligible renewable energy resources for each of several multi-year compliance periods, with the first compliance period beginning on January 1, 2011, and ending December 31, 2013. SBX1-2 also

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	which establishes categories of			
	electricity products from eligible			
	renewable energy resources and			
	sets the minimum and maximum			
	amounts of these products that			
	may be procured in a given RPS			
	compliance period for contracts			
	executed after June 1, 2010.			
41.	7. SBX1-2 repealed PUC Section	Legal argument and		
	387.	conclusions which are		
		for briefing not for		
		"disputed facts" to be		
		ruled on as "evidence."		
42.	8. SBX1-2 amended and	Legal argument and		
	renumbered PUC	conclusions which are		
	section 399.13 as section 399.25,	for briefing not for		
	which required the CEC to do the	"disputed facts" to be		
	following:	ruled on as "evidence."		
	"(a) Certify eligible renewable			
	energy resources that it determines			
	meet the criteria described in			

<u>No.</u>	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	subdivision (e) of Section 399.12."			
	"(b) Design and implement an			
	accounting system to verify			
	compliance with the renewables			
	portfolio standard by retail sellers			
	and local publicly owned electric			
	utilities, to ensure that electricity			
	generated by an eligible renewable			
	energy resource is counted only			
	once for the purpose of meeting			
	the renewables portfolio standard			
	of this state or any other state, to			
	certify renewable energy credits			
	produced by eligible renewable			
	energy resources, and to verify			
	retail product claims in this state			
	or any other state"			
43.	9. SBX1-2 amended Public	Legal argument and		
	Resources Code ("PRC") section	conclusions which are		
	25747 (a), which authorizes the	for briefing not for		
	CEC to adopt guidelines	"disputed facts" to be		

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	governing the CEC's funding	ruled on as "evidence."		
	programs under Chapter 8.6			
	(sections 25740 – 25751 of the			
	PRC) and CEC's responsibilities			
	under PUC section			
	399.25. PRC section 25747(a)			
	requires that the CEC adopt the			
	guidelines at a publicly noticed			
	meeting offering all interested			
	parties an opportunity to comment,			
	that substantive changes to the			
	guidelines shall not be adopted			
	without at least 10 days' written			
	notice to the public, and that the			
	public notice of meetings required			
	by this subdivision shall not be			
	less than 30 days. PRC section			
	25747(a) further provides that the			
	guidelines adopted pursuant to			
	Chapter 8.6 or PUC section 399.25			
	are exempt from the formal			
	are exempt from the formal			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	rulemaking requirements of			
	Chapter 3.5 (commencing with			
	section 11340) of Part 1 of			
	Division 3 of Title 2 of the			
	Government Code.			
44.	10. Under SBX1-2, the CEC is	Legal argument and		
	charged with certifying all	conclusions which are		
	"eligible renewable energy	for briefing not for		
	resources" that may be used by	"disputed facts" to be		
	retail sellers and POUs to meet	ruled on as "evidence."		
	their RPS procurement			
	requirements under Article 16			
	(commencing with section 399.11)			
	of Chapter 2.3 of Part 1 of			
	Division 1 of the PUC.			
45.	11. Under SBX1-2, the CEC is	Legal argument and		
	charged with designing and	conclusions which are		
	implementing the accounting	for briefing not for		
	system that must be used by retail	"disputed facts" to be		
	sellers and POUs to verify their	ruled on as "evidence."		
	compliance with the RPS under			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	Article 16 (commencing with			
	section 399.11) of Chapter 2.3 of			
	Part 1 of Division 1 of the PUC, to			
	ensure that electricity generated by			
	an eligible renewable energy			
	resource is counted only once for			
	the purpose of meeting the RPS of			
	this state or any other state, to			
	certify renewable energy credits			
	("RECs") produced by eligible			
	renewable energy resources, and to			
	verify retail product claims in this			
	state or any other state.			
46.	12. On May 9, 2012, the CEC	Legal argument and		
	adopted guidelines governing the	conclusions which are		
	certification of eligible renewable	for briefing not for		
	energy resources for RPS for retail	"disputed facts" to be		
	sellers and POUs pursuant to PUC	ruled on as "evidence."		
	section 399.25, as amended and			
	renumbered by SBX1-2. These			
	guidelines are set forth in the			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	CEC's RPS Eligibility Guidebook,			
	Fifth Edition ("Fifth Edition			
	Guidebook").			
47.	13. On May 9, 2012, the CEC	Legal argument and		
	adopted guidelines governing the	conclusions which are		
	accounting and verification of	for briefing not for		
	electricity generation and RECs	"disputed facts" to be		
	from eligible renewable energy	ruled on as "evidence."		
	resources for the RPS for retail			
	sellers and POUs pursuant to PUC			
	section 399.25, as amended and			
	renumbered by SBX1-2. These			
	guidelines are set forth in the Fifth			
	Edition Guidebook.			
48.	14. The Fifth Edition Guidebook	Legal argument and		
	specified criteria for the CEC to	conclusions which are		
	certify electrical generation	for briefing not for		
	facilities as eligible renewable	"disputed facts" to be		
	energy resources for the RPS when	ruled on as "evidence."		
	those facilities are owned or under			
	contract to POUs. Specifically, the			

Material Objected To:	Grounds for	Sustained:	Denied:
	Objection:		
Fifth Edition Guidebook states:			
"Electricity generation from any			
facility cannot be counted toward			
meeting a retail seller's RPS			
procurement requirements unless			
the facility is first certified by the			
Energy Commission as an eligible			
renewable energy resource for the			
RPS. This same requirement			
applies to RPS procurement for			
POUs subject to the grace period			
exception noted below. Any			
facility operator who owns a			
facility or is interested in entering			
into a contract to generate			
electricity that will count toward a			
retail seller's or POU's RPS			
obligation must certify the facility			
with the Energy Commission			
before the generation may be			
counted toward a retail seller's or			
	Fifth Edition Guidebook states: "Electricity generation from any facility cannot be counted toward meeting a retail seller's RPS procurement requirements unless the facility is first certified by the Energy Commission as an eligible renewable energy resource for the RPS. This same requirement applies to RPS procurement for POUs subject to the grace period exception noted below. Any facility operator who owns a facility or is interested in entering into a contract to generate electricity that will count toward a retail seller's or POU's RPS obligation must certify the facility with the Energy Commission before the generation may be	Fifth Edition Guidebook states: "Electricity generation from any facility cannot be counted toward meeting a retail seller's RPS procurement requirements unless the facility is first certified by the Energy Commission as an eligible renewable energy resource for the RPS. This same requirement applies to RPS procurement for POUs subject to the grace period exception noted below. Any facility operator who owns a facility or is interested in entering into a contract to generate electricity that will count toward a retail seller's or POU's RPS obligation must certify the facility with the Energy Commission before the generation may be	Fifth Edition Guidebook states: "Electricity generation from any facility cannot be counted toward meeting a retail seller's RPS procurement requirements unless the facility is first certified by the Energy Commission as an eligible renewable energy resource for the RPS. This same requirement applies to RPS procurement for POUs subject to the grace period exception noted below. Any facility operator who owns a facility or is interested in entering into a contract to generate electricity that will count toward a retail seller's or POU's RPS obligation must certify the facility with the Energy Commission before the generation may be

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	POU's RPS obligation."			
49.	15. The Fifth Edition Guidebook	Legal argument and		
	specifies the following: "All	conclusions which are		
	generation from facilities certified	for briefing not for		
	as eligible for California's RPS	"disputed facts" to be		
	must be tracked in the WREGIS	ruled on as "evidence."		
	[Western Renewable Electricity			
	Generation Information System],			
	with the limited exceptions for			
	2011-2012 generation noted in this			
	guidebook for facilities serving			
	POUs and generation procured			
	under an AB 920 program prior to			
	October 1, 2012. Applicants for			
	certification must provide the			
	WREGIS Generating Unit			
	Identification number (GU ID) for			
	each certified facility to the			
	Energy Commission by October 1,			
	2012.71" Footnote 71 states:			
	"POUs may use the Interim			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	Tracking System (ITS) to report			
	generation occurring through			
	October 2012 that is not tracked in			
	WREGIS; for more information on			
	the ITS, see Section IV: RPS			
	Tracking, Reporting and			
	Verification System. Applicants			
	must register their facilities with			
	WREGIS to receive a WREGIS ID			
	number."			
50.	16. The Fifth Edition Guidebook	Legal argument and		
	also specifies the following:	conclusions which are		
	"Grace Period Exception for	for briefing not for		
	Facilities Serving Local Publicly	"disputed facts" to be		
	Owned Electric Utilities For	ruled on as "evidence."		
	generation occurring on or after			
	January 1, 2011, to count toward a			
	POU's RPS procurement			
	obligations from a facility that was			
	not certified by the Energy			
	Commission as RPS-eligible at the			

<u>No.</u>	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	time of generation, the Energy			
	Commission must receive an			
	application for RPS certification			
	before October 1, 2012, and			
	subsequently certify the facility as			
	RPS-eligible. ⁷³			
	Footnote 73 states: "Facilities			
	under contract with or approved by			
	a POU for its RPS before June 1,			
	2010, are encouraged to apply for			
	certification by October 1, 2012,			
	but are not required to do so."			
51.	17. On April 30, 2013, the CEC	Legal argument and		
	adopted revisions to its guidelines	conclusions which are		
	governing the certification of	for briefing not for		
	eligible renewable energy	"disputed facts" to be		
	resources for the RPS and the	ruled on as "evidence."		
	accounting and verification of			
	electricity generation and RECs			
	from eligible renewable energy			
	resources for the RPS for retail			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	sellers and POUs. These			
	guidelines are set forth in the			
	CEC's RPS Eligibility Guidebook,			
	Seventh Edition ("Seventh Edition			
	Guidebook").			
52.	18. The Seventh Edition	Legal argument and		
	Guidebook extended the grace	conclusions which are		
	period to apply for RPS	for briefing not for		
	certification for electrical	"disputed facts" to be		
	generation facilities serving POUs.	ruled on as "evidence."		
	Specifically, the Seventh Edition			
	Guidebook states: "c. Grace Period			
	Exception for Facilities Serving			
	Local Publicly Owned Electric			
	Utilities For generation occurring			
	on or after January 1, 2011, to			
	count toward a POU's RPS			
	procurement obligations from a			
	facility that was not certified by			
	the Energy Commission as RPS			
	eligible at the time of generation,			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	the Energy Commission must			
	receive an application for RPS			
	certification by December 31,			
	2013, and subsequently certify the			
	facility as RPS-eligible.80"			
	Footnote 80 states: "A facility			
	must be RPS-certified by the			
	Energy Commission before a POU			
	or retail seller may report			
	procurement of its generation			
	toward the POU's or retail seller's			
	RPS procurement requirements. In			
	earlier editions of this guidebook,			
	a facility under contract with or			
	approved by a POU for its RPS			
	before June 1, 2010, was			
	encouraged to apply for			
	certification by October 1, 2012."			
53.	19. Neither LADWP nor Powerex	Legal argument and		
	Corp has applied to the CEC to	conclusions which are		
	certify any of the BC Hydro	for briefing not for		
				<u> </u>

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	"facilities," as designated in	"disputed facts" to be		
	LADWP agreements BP 05-020-A	ruled on as "evidence;"		
	and BP 05-020-B, as an eligible	conjecture; unsupported		
	renewable energy resource for the	conclusions or opinions		
	RPS.			
54.	20. LADWP agreements BP 05-	Legal argument and		
	020-A and BP 05-020-B with	conclusions which are		
	Powerex Corp for electricity from	for briefing not for		
	BC Hydro facilities do not identify	"disputed facts" to be		
	specific electrical generation	ruled on as "evidence;"		
	facilities, but instead define	conjecture; unsupported		
	"Facilities" to include	conclusions or opinions		
	hydroelectric generating facilities .			
	having a nameplate capacity not			
	exceeding 30 MW; plus any			
	generating facility or facilities			
	designated by Powerex of the			
	type referred to in Part 1 of			
	Appendix A" and " of a			
	type referred to in Part 2 of			
	Appendix A" Part 1 of			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	Appendix A of the agreements			
	identifies the following additional			
	resources: "hydroelectric (30 MW			
	or less nameplate capacity),			
	biomass, landfill gas, and wind."			
	Part 2 of Appendix A of the			
	agreements identifies the			
	following additional resources:			
	"biodiesel, digester gas, waste gas,			
	solar thermal, geothermal,			
	photovoltaics, fuel cells with			
	renewable fuels and ocean wave			
	technologies."			
55.	21. SBX1-2 amended the	Legal argument and		
	definition of "eligible renewable	conclusions which are		
	energy resource" in PUC section	for briefing not for		
	399.12(e)(1) to add the following	"disputed facts" to be		
	new resource category:	ruled on as "evidence."		
	"(A) A small hydroelectric			
	generation unit with a nameplate			
	capacity not exceeding 40			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	megawatts that is operated as part			
	of a water supply or conveyance			
	system is an eligible			
	renewable energy resource if the			
	retail seller or local publicly			
	owned electric utility procured the			
	electricity from the facility as of			
	December 31, 2005."			
56.	22. and 56. SBX1-2 amended the	Legal argument and		
	definition of "eligible renewable	conclusions which are		
	energy resource" in PUC section	for briefing not for		
	399.12(e)(1) to add the following	"disputed facts" to be		
	provisions for certifying eligible	ruled on as "evidence."		
	renewable energy resources for the			
	RPS if the facility had been			
	approved by a POU prior to June			
	1, 2010, to satisfy the POU's			
	renewable energy procurement			
	obligations pursuant to PUC			
	section 387:			
	"(C) A facility approved by the			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	governing board of a local publicly			
	owned electric utility prior to June			
	1, 2010, for procurement to satisfy			
	renewable energy procurement			
	obligations adopted pursuant to			
	former Section 387, shall be			
	certified as an eligible renewable			
	energy resource by the Energy			
	Commission pursuant to this			
	article, if the facility is a			
	'renewable electrical generation			
	facility' as defined in Section			
	25741 of the Public Resources			
	Code."			
57.	23. PUC Section 399.12(e)(1)(A)	Legal argument and		
	evinces the legislature's intent not	conclusions which are		
	to grandfather all resources	for briefing not for		
	approved by a POU prior to June	"disputed facts" to be		
	1, 2010, to satisfy renewable	ruled on as "evidence;"		
	energy procurement obligations	lacks foundation;		
	adopted by the POU pursuant to	hearsay		

<u>No.</u>	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	PUC section 387, since section			
	399.12(e)(1)(A) establishes a new			
	eligible resource category for the			
	RPS for a "small hydroelectric			
	generation unit with a nameplate			
	capacity not exceeding 40			
	megawatts that is operated as part			
	of a water supply or conveyance			
	system if the retail seller or			
	local publicly owned electric			
	utility procured the electricity			
	from the facility as of December			
	31, 2005."			
58.	29. The CEC certified LADWP's	Not relevant; Lacks		
	Upper Gorge Power Plant - Unit 1	foundation; unsupported		
	as an eligible renewable energy	conclusion		
	resource for the RPS under the			
	category for a hydroelectric			
	generation unit with a nameplate			
	capacity not exceeding 40			
	megawatts that is operated as part			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	of a water supply or conveyance			
	system in accordance with the			
	Sixth Edition Guidebook.			
59.	30. The CEC certified LADWP's	Not relevant; Lacks		
	Middle Gorge Power Plant - Unit	foundation; unsupported		
	1 as an eligible renewable energy	conclusion		
	resource for the RPS under the			
	category for a hydroelectric			
	generation unit with a nameplate			
	capacity not exceeding 40			
	megawatts that is operated as part			
	of a water supply or conveyance			
	system in accordance with the			
	Sixth Edition Guidebook.			
60.	31. The CEC certified LADWP's	Not relevant; Lacks		
	Control Gorge Power Plant - Unit	foundation; unsupported		
	1 as an eligible renewable energy	conclusion		
	resource for the RPS under the			
	category for a hydroelectric			
	generation unit with a nameplate			
	capacity not exceeding 40			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	megawatts that is operated as part			
	of a water supply or conveyance			
	system in accordance with the			
	Sixth Edition Guidebook.			
61.	25. The "eligible" resource	Conjecture; lacks		
	category for "Los Angeles	foundation; conclusions		
	Aqueduct hydro power plants" in	or opinions; hearsay; not		
	LADWP's 2005 RPS Policy	relevant		
	satisfies the requirements in PUC			
	section 399.12(e)(1)(A) for a			
	"small hydroelectric generation			
	unit with a nameplate capacity not			
	exceeding 40 megawatts that is			
	operated as part of a water supply			
	or conveyance system if the			
	retail seller or local publicly			
	owned electric utility procured the			
	electricity from the facility as of			
	December 31, 2005."			
62.	32. SBX1-2 enacted other	Legal argument and		
	provisions in the RPS statute that	conclusions which are		

			Denied:
	Objection:		
evince the legislature's intent not	for briefing not for		
to grandfather all resources	"disputed facts" to be		
approved by a POU prior to June	ruled on as "evidence;"		
1, 2010, to satisfy renewable	lacks foundation;		
energy procurement obligations	hearsay		
adopted by the POUs pursuant to			
PUC section			
387. These other provisions in the			
statute include PUC sections			
399.30(h), (i) and (k),			
which established exemptions			
from the RPS procurements			
requirements for specific POU			
resources.			
33. Subsequent amendments to the	Legal argument and		
RPS statute after SBX1-2 further	conclusions which are		
evince the legislature's intent not	for briefing not for		
to grandfather all resources	"disputed facts" to be		
approved by a POU prior to June	ruled on as "evidence;"		
1, 2010, to satisfy renewable	lacks foundation;		
energy procurement obligations	hearsay		
	approved by a POU prior to June 1, 2010, to satisfy renewable energy procurement obligations adopted by the POUs pursuant to PUC section 387. These other provisions in the statute include PUC sections 399.30(h), (i) and (k), which established exemptions from the RPS procurements requirements for specific POU resources. 33. Subsequent amendments to the RPS statute after SBX1-2 further evince the legislature's intent not to grandfather all resources approved by a POU prior to June 1, 2010, to satisfy renewable	approved by a POU prior to June 1, 2010, to satisfy renewable energy procurement obligations adopted by the POUs pursuant to PUC section 387. These other provisions in the statute include PUC sections 399.30(h), (i) and (k), which established exemptions from the RPS procurements requirements for specific POU resources. 33. Subsequent amendments to the RPS statute after SBX1-2 further evince the legislature's intent not to grandfather all resources approved by a POU prior to June 1, 2010, to satisfy renewable ruled on as "evidence;" lacks foundation;	approved by a POU prior to June 1, 2010, to satisfy renewable energy procurement obligations adopted by the POUs pursuant to PUC section 387. These other provisions in the statute include PUC sections 399.30(h), (i) and (k), which established exemptions from the RPS procurements requirements for specific POU resources. 33. Subsequent amendments to the RPS statute after SBX1-2 further evince the legislature's intent not to grandfather all resources approved by a POU prior to June 1, 2010, to satisfy renewable ruled on as "evidence;" lacks foundation;

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	adopted by the POU pursuant to			
	PUC section 387. Specifically, the			
	legislature enacted Senate Bill 350			
	("SB 350"), which, among other			
	things, amended PUC section			
	399.30 to add a new subdivision			
	(l) to establish a limited RPS			
	procurement exemption for POUs			
	that procure more than 50 percent			
	of their retail sales needs in a			
	given year of a RPS compliance			
	period from large hydroelectric			
	generation facilities that are not			
	eligible renewable energy			
	resources.			
64.	35. and 60. SBX1-2 added PUC	Legal argument and		
	section 399.16, which establishes	conclusions which are		
	categories of electricity products	for briefing not for		
	from eligible renewable energy	"disputed facts" to be		
	resources that may be used to	ruled on as "evidence"		
	satisfy a retail seller's RPS			

<u>No.</u>	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	procurement requirements, and			
	establishes minimum and			
	maximum percentages for the			
	amount of these electricity			
	products that may be procured by			
	a retail seller in given compliance			
	period for the RPS.			
65.	36. and 60. PUC section 399.16	Legal argument and		
	also establishes a procurement	conclusions which are		
	category for electricity products	for briefing not for		
	that were procured pursuant to	"disputed facts" to be		
	contracts or ownership agreement	ruled on as "evidence"		
	executed prior to June 1, 2010.			
	The requirements for this			
	procurement category are			
	prescribed in subdivision (d),			
	which provides as follows:			
	"(d) Any contract or ownership			
	agreement originally executed			
	prior to June 1, 2010, shall count			
	in full towards the procurement			

Material Objected To:	Grounds for	Sustained:	Denied:
	Objection:		
requirements established pursuant			
to this article, if all of the			
following conditions are met:			
(1) The renewable energy resource			
was eligible under the rules in			
place as of the date when the			
contract was executed.			
(2) For an electrical corporation,			
the contract has been approved by			
the commission, even if that			
approval occurs after June 1, 2010.			
(3) Any contract amendments or			
modifications occurring after June			
1, 2010, do not increase the			
nameplate capacity or expected			
quantities of annual generation, or			
substitute a different renewable			
energy resource. The duration of			
the contract may be extended if the			
original contract specified a			
procurement commitment of 15 or			
	requirements established pursuant to this article, if all of the following conditions are met: (1) The renewable energy resource was eligible under the rules in place as of the date when the contract was executed. (2) For an electrical corporation, the contract has been approved by the commission, even if that approval occurs after June 1, 2010. (3) Any contract amendments or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource. The duration of the contract may be extended if the original contract specified a	requirements established pursuant to this article, if all of the following conditions are met: (1) The renewable energy resource was eligible under the rules in place as of the date when the contract was executed. (2) For an electrical corporation, the contract has been approved by the commission, even if that approval occurs after June 1, 2010. (3) Any contract amendments or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource. The duration of the contract may be extended if the original contract specified a	requirements established pursuant to this article, if all of the following conditions are met: (1) The renewable energy resource was eligible under the rules in place as of the date when the contract was executed. (2) For an electrical corporation, the contract has been approved by the commission, even if that approval occurs after June 1, 2010. (3) Any contract amendments or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource. The duration of the contract may be extended if the original contract specified a

Material Objected To:	Grounds for	Sustained:	Denied:
	Objection:		
more years."			
37. and 60. SBX1-2 added PUC	Legal argument and		
section 399.30(c)(3), which states	conclusions which are		
that "a local publicly owned	for briefing not for		
electric utility shall adopt	"disputed facts" to be		
procurement requirements	ruled on as "evidence"		
consistent with [PUC] Section			
399.16."			
38. and 60. PUC section	Legal argument and		
399.16(d) applies to POUs by	conclusions which are		
virtue of PUC section	for briefing not for		
399.30(c)(3), which is directly	"disputed facts" to be		
applicable to retail sellers.	ruled on as "evidence"		
39. and 60. The CEC interpreted	Legal argument and		
the provisions of PUC section	conclusions which are		
399.16(d) in the context of its	for briefing not for		
rulemaking establishing	"disputed facts" to be		
"Enforcement Procedures For The	ruled on as "evidence"		
Renewables Portfolio Standard for			
Local Publicly Owned Electric			
Utilities" pursuant to PUC section			
	more years." 37. and 60. SBX1-2 added PUC section 399.30(c)(3), which states that "a local publicly owned electric utility shall adopt procurement requirements consistent with [PUC] Section 399.16." 38. and 60. PUC section 399.16(d) applies to POUs by virtue of PUC section 399.30(c)(3), which is directly applicable to retail sellers. 39. and 60. The CEC interpreted the provisions of PUC section 399.16(d) in the context of its rulemaking establishing "Enforcement Procedures For The Renewables Portfolio Standard for Local Publicly Owned Electric	more years." 37. and 60. SBX1-2 added PUC section 399.30(c)(3), which states that "a local publicly owned electric utility shall adopt procurement requirements ruled on as "evidence" 38. and 60. PUC section 399.16." Legal argument and conclusions which are ruled on as "evidence" for briefing not for sevidence as "evidence" ruled on as "evidence" for briefing not for section for briefing not for section for briefing not for section applicable to retail sellers. 39. and 60. The CEC interpreted the provisions of PUC section applicable to retail sellers. 39. and 60. The CEC interpreted the provisions of PUC section applicable to retail sellers. 39. and 60. The CEC interpreted the provisions of PUC section applicable to retail sellers. 39. and 60. The CEC interpreted the provisions of PUC section applicable to retail sellers. 39. and 60. The CEC interpreted the provisions of PUC section applications which are service for briefing not for rulemaking establishing "disputed facts" to be ruled on as "evidence" ruled on	more years." 37. and 60. SBX1-2 added PUC section 399.30(c)(3), which states that "a local publicly owned electric utility shall adopt procurement requirements consistent with [PUC] Section 399.16." 38. and 60. PUC section Legal argument and conclusions which are virtue of PUC section for briefing not for surface of procurement and conclusions which are virtue of PUC section for briefing not for surface of procurement and conclusions which are virtue of PUC section for briefing not for supplicable to retail sellers. 39. and 60. The CEC interpreted the provisions of PUC section conclusions which are for briefing not for rulemaking establishing "disputed facts" to be rulemaking establishing "disputed facts" to be ruled on as "evidence" rulemaking establishing "disputed facts" to be ruled on as "evidence" ruled on as "evidence" ruled on as "evidence" supplicable facts" to be ruled on as "evidence" rulemaking establishing "disputed facts" to be ruled on as "evidence" ruled on as "evidence" supplicable portfolio Standard for Local Publicly Owned Electric

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	399.30(n) as enacted by SBX1-2.			
	These regulations are set forth in			
	California Code of Regulations,			
	title 20, sections 1240 and 3200-			
	3208.			
69.	40. and 60. The State of	Legal argument and		
	California Office of	conclusions which are		
	Administrative Law ("OAL")	for briefing not for		
	considered the CEC's	"disputed facts" to be		
	interpretation of the provisions of	ruled on as "evidence"		
	PUC section 399.16(d) when OAL			
	reviewed and approved the CEC's			
	regulations establishing			
	"Enforcement Procedures For The			
	Renewables Portfolio Standard for			
	Local Publicly Owned Electric			
	Utilities."			
70.	42. On March 14, 2007, the CEC	Legal argument and		
	adopted requirements in RPS	conclusions which are		
	Eligibility Guidebook, Second	for briefing not for		

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	Edition ("Second Edition	"disputed facts" to be		
	Guidebook") for the RPS	ruled on as "evidence"		
	certification of electrical			
	generation facilities based on the			
	use of biogas injected into a			
	natural gas transportation pipeline			
	system and delivered into			
	California for use at a facility.			
No.	Material Fact – RPS Eligibility	Grounds for Objection		
	of Scattergood, Harbor, Valley			
	and Haynes Facilities Based on			
	the 2009 Shell and Atmos			
	Contracts			
71.	43 . The Second Edition	Not relevant; Legal		
	Guidebook established	argument and		
	requirements for the delivery of	conclusions which are		
	biogas injected into a natural gas	for briefing not for		
	transportation pipeline system and	"disputed facts" to be		
	delivered into California for use in	ruled on as "evidence"		
	an electrical generation facility.			

<u>No.</u>	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	The Second Edition Guidebook			
	states: "RPS-eligible biogas (gas			
	derived from RPSeligible biomass			
	or digester gas) injected into a			
	natural gas transportation pipeline			
	systems and delivered into			
	California for use in an			
	RPScertified hybrid facility may			
	result in the generation of RPS-			
	eligible electricity."			
72.	44. The requirements for the	Legal argument and		
	delivery of biogas injected into a	conclusions which are		
	natural gas transportation pipeline	for briefing not for		
	system and delivered into	"disputed facts" to be		
	California for use in an	ruled on as "evidence;"		
	electrical generation facility were	conjecture; unsupported		
	based on the fuel "use" condition	conclusions or opinions		
	specified in the definition of			
	an "in-state renewable electricity			
	generation technology" in Public			
	Utilities Code section 383.5.			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
73.	45. In defining an "eligible	Legal argument and		
	renewable energy resource" for	conclusions which are		
	purposes of the RPS, PUC section	for briefing not for		
	399.12(a) cross referenced the	"disputed facts" to be		
	definition of an "in-state	ruled on as "evidence;"		
	renewable electricity generation	not relevant;		
	technology" in PUC section	unsupported conclusions		
	383.5. Specifically,	or opinions		
	PUC section 399.12 (a) provided			
	as follows: "For purposes of this			
	article, the following terms have			
	the following meanings: (a)(1)			
	'Eligible renewable energy			
	resource' means an electric			
	generating facility that is one of			
	the following: (1) The facility			
	meets the definition of 'in-state			
	renewable electricity generation			
	technology' in Section 383.5."			
74.	46. On December 19, 2007, the	Legal argument and		
	CEC adopted the RPS Eligibility	conclusions which are		

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	Guidebook, Third Edition ("Third	for briefing not for		
	Edition Guidebook"). Except for	"disputed facts" to be		
	some minor clarifications, the	ruled on as "evidence;"		
	requirements in the Second	not relevant;		
	Edition Guidebook and Third	unsupported conclusions		
	Edition Guidebook were the same	or opinions		
	regarding the RPS certification of			
	electrical generation facilities			
	based on the use of biogas injected			
	into a natural gas transportation			
	pipeline system and delivered into			
	California for use in a facility. The			
	Third Edition Guidebook states:			
	"RPS-eligible biogas (gas derived			
	from RPSeligible fuel such as			
	biomass or digester gas) injected			
	into a natural gas transportation			
	pipeline system and delivered into			
	California for use in an RPS-			
	certified multi-fuel facility may			
	result in the generation of RPS-			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	eligible electricity."			
75.	47. The requirements in the	Legal argument and		
	Second Edition Guidebook and	conclusions which are		
	Third Edition Guidebook for the	for briefing not for		
	delivery of biogas injected into a	"disputed facts" to be		
	natural gas transportation pipeline	ruled on as "evidence;"		
	system and delivered into	unsupported conclusions		
	California for use in an electrical	or opinions; based on		
	generation facility are referred to	declaration submitted		
	as the "biomethane delivery	after 9-21-16 briefing		
	requirements" by CEC Staff.	deadline		
76.	48. CEC Staff applied the	Legal argument and		
	"biomethane delivery	conclusions which are		
	requirements" in the Third Edition	for briefing not for		
	Guidebook to all applicants that	"disputed facts" to be		
	applied for RPS certification under	ruled on as "evidence;"		
	the Third Edition Guidebook.	unsupported conclusions		
		or opinions; based on		
		declaration submitted		
		after 9-21-16 briefing		
		deadline		

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
77.	49. CEC Staff certified four	Not relevant; based on		
	facilities for the RPS under the	declaration submitted		
	Third Edition Guidebook based on	after 9-21-16 briefing		
	the use of biomethane injected into	deadline		
	a natural gas transportation			
	pipeline system. These facilities			
	included the following: 1)			
	Gateway Generating Station, RPS			
	ID 60758F, owned by Pacific Gas			
	and Electric Company (PG&E); 2)			
	Cosumnes Power Plant, RPS ID			
	60760F, owned by Sacramento			
	Municipal Utility District			
	Financing Authority (SMUD); 3)			
	Los Medanos Energy Center, RPS			
	ID 61048F, owned by Los			
	Medanos Energy Center, LLC			
	(Calpine); and 4) Pastoria Energy			
	Facility, RPS ID 61064F, owned			
	by Pastoria Energy Facility, LLC			
	(Calpine).			

Material Objected To:	Grounds for	Sustained:	Denied:
	Objection:		
50. CEC Staff determined that	Not relevant; argument		
PG&E, SMUD, and Calpine	and conclusions which		
satisfied the "biomethane delivery	are for briefing not for		
requirements" under the Third	"disputed facts" to be		
Edition Guidebook based on the	ruled on as "evidence;"		
documentation submitted by these	based on declaration		
applicants.	submitted after 9-21-16		
	briefing deadline		
51. CEC Staff determined that the	Not relevant; argument		
documentation submitted by	and conclusions which		
LADWP for the RPS certification	are for briefing not for		
of the Scattergood, Harbor, Valley,	"disputed facts" to be		
and Haynes facilities, namely the	ruled on as "evidence;"		
2009 Shell and Atmos	based on declaration		
Agreements, did not show that the	submitted after 9-21-16		
biomethane procured under these	briefing deadline		
agreements satisfied the			
"biomethane delivery			
requirement" as those			
requirements were interpreted and			
applied to the applications of			
	50. CEC Staff determined that PG&E, SMUD, and Calpine satisfied the "biomethane delivery requirements" under the Third Edition Guidebook based on the documentation submitted by these applicants. 51. CEC Staff determined that the documentation submitted by LADWP for the RPS certification of the Scattergood, Harbor, Valley, and Haynes facilities, namely the 2009 Shell and Atmos Agreements, did not show that the biomethane procured under these agreements satisfied the "biomethane delivery requirement" as those requirements were interpreted and	50. CEC Staff determined that PG&E, SMUD, and Calpine satisfied the "biomethane delivery requirements" under the Third Edition Guidebook based on the documentation submitted by these applicants. 51. CEC Staff determined that the documentation submitted by LADWP for the RPS certification of the Scattergood, Harbor, Valley, and Haynes facilities, namely the 2009 Shell and Atmos Agreements, did not show that the biomethane procured under these agreements satisfied the "biomethane delivery requirement" as those requirements were interpreted and	Dbjection: 50. CEC Staff determined that PG&E, SMUD, and Calpine satisfied the "biomethane delivery requirements" under the Third Edition Guidebook based on the documentation submitted by these applicants. 51. CEC Staff determined that the documentation submitted by LADWP for the RPS certification of the Scattergood, Harbor, Valley, and Haynes facilities, namely the 2009 Shell and Atmos Agreements, did not show that the biomethane procured under these agreements satisfied the "biomethane delivery requirement" as those requirements were interpreted and

Material Objected To:	Grounds for	Sustained:	Denied:
	Objection:		
PG&E, SMUD, and Calpine			
55. LADWP did not submit	Argument, conclusions		
documentation to the CEC to show	and opinions which are		
that it satisfied the "biomethane	for briefing not for		
delivery requirements" as	"disputed facts" to be		
interpreted and applied by CEC	ruled on as "evidence;"		
Staff under the Third Edition	based on declaration		
Guidebook for gas procured under	submitted after 9-21-16		
the 2009 Shell and Atmos	briefing deadline.		
Agreements from the point of			
injection at the designated landfills			
to Opal, Wyoming.			
57. Under PUC section	Legal argument and		
399.12(e)(1)(C), a facility	conclusions which are		
approved by a POU prior to June	for briefing not for		
1, 2010, for procurement to satisfy	"disputed facts" to be		
renewable energy procurement	ruled on as "evidence;"		
obligations adopted by the POU			
pursuant to PUC Section 387 may			
be certified by the CEC as an			
eligible renewable energy resource			
	PG&E, SMUD, and Calpine 55. LADWP did not submit documentation to the CEC to show that it satisfied the "biomethane delivery requirements" as interpreted and applied by CEC Staff under the Third Edition Guidebook for gas procured under the 2009 Shell and Atmos Agreements from the point of injection at the designated landfills to Opal, Wyoming. 57. Under PUC section 399.12(e)(1)(C), a facility approved by a POU prior to June 1, 2010, for procurement to satisfy renewable energy procurement obligations adopted by the POU pursuant to PUC Section 387 may be certified by the CEC as an	PG&E, SMUD, and Calpine 55. LADWP did not submit documentation to the CEC to show that it satisfied the "biomethane delivery requirements" as interpreted and applied by CEC Staff under the Third Edition Guidebook for gas procured under the 2009 Shell and Atmos Agreements from the point of injection at the designated landfills to Opal, Wyoming. 57. Under PUC section June 1, 2010, for procurement to satisfy renewable energy procurement obligations adopted by the POU pursuant to PUC Section 387 may be certified by the CEC as an	PG&E, SMUD, and Calpine 55. LADWP did not submit documentation to the CEC to show that it satisfied the "biomethane delivery requirements" as interpreted and applied by CEC Staff under the Third Edition Guidebook for gas procured under the 2009 Shell and Atmos Agreements from the point of injection at the designated landfills to Opal, Wyoming. 57. Under PUC section Japproved by a POU prior to June 1, 2010, for procurement to satisfy renewable energy procurement obligations adopted by the POU pursuant to PUC Section 387 may be certified by the CEC as an

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	for the RPS "if the facility is a			
	'renewable electrical generation			
	facility' as defined in Section			
	25741 of the Public Resources			
	Code."			
82.	58. Public Resources Code	Legal argument and		
	("PRC") Section 25741(a)(1)	conclusions which are		
	defines a "renewable electrical	for briefing not for		
	generation facility" as follows:	"disputed facts" to be		
	"(a) 'Renewable electrical	ruled on as "evidence"		
	generation facility' means a			
	facility that meets all of the			
	following criteria:			
	(1) The facility uses biomass, solar			
	thermal, photovoltaic, wind,			
	geothermal, fuel cells using			
	renewable fuels, small			
	hydroelectric generation of 30			
	megawatts or less, digester gas,			
	municipal solid waste conversion,			
	landfill gas, ocean wave, ocean			

No.	Material Objected To:	Grounds for	Sustained:	Denied:
		Objection:		
	thermal, or tidal current, and any			
	additions or enhancements to the			
	facility using that technology.			
	[]"			