SOUTHERN CALIFORNIA EDISON
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California Energy Commission
Docket Office, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512

Re: 33 Percent Renewables Portfolio Standard Publicly Owned Electric Utility Regulations Concept Paper (Docket No. 11-RPS-01)

Southern California Edison Company ("SCE") respectfully submits these comments on the California Energy Commission ("Energy Commission") Staff's 33 Percent Renewables Portfolio Standard ("RPS") Publicly Owned Electric Utility ("POU") Regulations Concept Paper ("Concept Paper").

As a guiding principle, SCE continues to encourage close collaboration between the Energy Commission and the California Public Utilities Commission ("CPUC") when dealing with decisions affecting the stability and growth of the renewables market. As SCE stated in its July 8, 2011 comments in response to the 33 Percent RPS Regulations for POUs, coordinated focus and timing on decisions regarding major RPS issues, and consistent treatment of POU and non-POU providers, will allow for a stable transition to the new RPS program.

With regards to the current Energy Commission effort to establish RPS regulations for POUs, Senate Bill ("SB") 2 (1x) assigns POU governing boards the responsibility to implement RPS procurement targets and related rules. The Energy Commission's primary responsibility is to adopt procedures for enforcement of the RPS rules adopted by the governing boards.[1] Accordingly, SCE believes the Energy Commission's current efforts are premature and should be realigned to more closely reflect the Legislature's guidance under SB 2 (1x). Nevertheless, SCE offers the following comments on the Concept Paper's discussion of foundational issues, product definitions, and reporting requirements.

A. The Rules Regarding Product Definitions, Targets and Compliance Verification Should Be the Same for POUs and Retail Sellers

In the Concept Paper, Energy Commission Staff identify determining the meaning of "consistent with" and "in the same manner as" as used in Public Utilities Code Section 399.30 as foundational issues.[2] As used in SB 2 (1x), these two phrases reflect the Legislature's intent to bring all load-serving entities under one RPS program and ensure that all Californian customers share equally in the responsibility of meeting the State's RPS goals.

[1] *See* Cal. Pub. Util. Code § 399.30(n).
[2] Concept Paper at 1.

SCE supports Energy Commission Staff's recommendation that the new RPS program should be applied to all entities using the same rules to the extent practicable.[3] In particular, product definitions, targets (including incorporation of bank), and compliance verification (including incorporation of off-ramps) should be the same for POUs and retail sellers. Items such as cost containment should be set for POUs in the spirit of providing similar rules as those for retail sellers. It is essential that fundamental issues regarding the overall RPS program framework be the same for POUs and retail sellers because consistency of program elements, such as product definitions and targets, will promote and maintain the integrity of the RPS program and avoid confusion in the market. It will also ensure that all customers in California are treated equally with regard to assuming responsibility for the State's ambitious RPS goals. Accordingly, SCE urges the Energy Commission to ensure key program elements adopted by POUs are in accordance with those adopted by the CPUC for retail sellers.

B. The Broad Consensus on the Definition of Product Categories Among Stakeholders Before the CPUC Should Aid the Energy Commission's Decision Making

The Concept Paper raises several issues regarding portfolio content category definitions under the new RPS program; however, Energy Commission Staff does not take a position on these issues.[4] In its August 8, 2011 comments to the CPUC on the product categories, SCE explained its position on the product categories set forth in Public Utilities Code Section 399.16. SCE is attaching those comments here. Moreover, a broad group of stakeholders reached significant consensus on several issues related to the product content categories. SCE's August 8, 2011 comments include an RPS Product Matrix summarizing consensus positions and areas of dispute as Appendix A to its comments. SCE believes that its comments and RPS Product Matrix should be a guide to Energy Commission Staff in interpreting the meaning of the new product categories established by SB 2 (1x). It is important that the Energy Commission allow the CPUC to issue its rulings on this matter before attempting to implement the product content categories. The CPUC process should determine how the legislation on product categories is implemented.

C. Consistent Reporting Requirements for all Load-Serving Entities will Enable Proper Comparison Across all Entities

In the Concept Paper, under the heading Compliance and Verification, Energy Commission Staff recommend a separate verification report be adopted for POUs at the end of each compliance period and posting of annual procurement data in each intervening year.[5] The Concept Paper asserts that having separate reports for POUs and retail sellers will facilitate the timely verification of procurement data with minimum delays. SCE supports increasing the efficiency and timeliness of verification reports. SCE also agrees with Energy Commission Staff that compliance can only be determined at the end of each compliance period and a verification report should only be adopted after each period.

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[3] *Id.*
[4] *Id.* at 2-5.
[5] *Id.* at 5-6.

In the last section of the Concept Paper, Energy Commission Staff also recommends, for regulatory streamlining purposes, that POUs modify existing forms submitted to the Energy Commission to reflect reporting requirements imposed by SB 2 (1X) and allowing consolidated/aggregated reports at the discretion of POUs.[6] While streamlining and increased program efficiency are worthy goals, SCE does not support the Concept Paper's recommendations because they would not create consistent reporting requirements for all entities under the new RPS program. Consistent reporting requirements will ensure that proper comparisons can be done across all entities, especially when analyzing the progress, costs, and benefits of meeting the 33% RPS goal. Without this parity, 33% RPS program analyses may be difficult to perform or inaccurate. For purposes of accurate analysis, ease of program administration, and simplicity, the Energy Commission should ensure that all load-serving entities are required to follow the same reporting and verification requirements under SB 2 (1x).

D. Conclusion

SCE appreciates the opportunity to provide comments to the Energy Commission on these important issues and looks forward to continued collaboration in the implementation of SB 2 (1x).

Sincerely,

/s/ Manuel Alvarez

Manuel Alvarez

[6] *Id.* at 11-12.

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 11-05-005 (Filed May 5, 2011)

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) COMMENTS TO ADMINISTRATIVE LAW JUDGE'S RENEWABLES PORTFOLIO STANDARD CATEGORIES RULING DATED JULY 12, 2011

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Pursuant to the Administrative Law Judge's Ruling Requesting Comments on Implementation of New Portfolio Content Categories for the Renewables Portfolio Standard Program dated July 12, 2011 ("RPS Categories Ruling"), Southern California Edison Company ("SCE") respectfully submits these comments to the California Public Utilities Commission ("CPUC" or "Commission"). SCE's comments focus on providing an overview of how Senate Bill X1 2 ("SB 2 (1x)") can be translated into a common-sense, efficient Renewables Portfolio Standard ("RPS") program that leverages existing resources and protocols applicable to all retail sellers, as well as providing specific responses to the questions posed in the RPS Categories Ruling. SCE's positions herein support and expand upon the consensus positions formulated by several diverse stakeholders.[1]

[1] A summary of these positions is included in the RPS Product Matrix attached hereto as Appendix A.

I.

OVERVIEW

In addition to responding to the 24 questions posed by the RPS Categories Ruling, SCE submits the following overview of how the product categories sections of the new RPS bill can be quickly and efficiently incorporated into current RPS reporting processes. This overview provides context for the framework SCE establishes in its responses to the specific questions posed by the RPS Categories Ruling.

A. Overview of Product Categories Generally

SB 2 (1x) makes significant changes to the structure of California's RPS program. Among the most significant of these changes is the implementation of a three-tiered structure for classifying and limiting certain products obtained from renewable generation pursuant to contracts signed on or after June 1, 2010. The first tier, described in Public Utilities Code Section 399.16(b)(1)[2] ("Bucket 1"), is intended to cover all transactions where eligible renewable energy resources ("ERRs") can demonstrate that they are electrically interconnected to a California balancing authority ("CBA") or can provide electricity from a renewable generator to a CBA on an hourly basis. SCE provides illustrations of Bucket 1 transactions in Figures 1 and 2 of Appendix B to these comments.

The second tier, described in Section 399.16(b)(2) ("Bucket 2"), is, broadly speaking, intended to capture products resulting from transactions with ERRs that are not directly interconnected to a CBA and which cannot provide their electricity on an hourly basis, thus requiring "firming and/or shaping" over a period longer than an hour. SCE provides an illustration of a Bucket 2 transaction in Figure 3 of Appendix B.

Lastly, the third tier, described in Section 399.16(b)(3) ("Bucket 3"), can be viewed generally as the category for those products that do not provide the attributes of Bucket 1 or

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[2] References are to the Public Utilities Code unless otherwise noted.

Bucket 2 products. Bucket 3 includes renewable energy credit ("REC")-only transactions.[3] SCE includes an illustration of a Bucket 3 transaction in Figure 4 of Appendix B.

Public Utilities Code Section 399.16(c) sets forth caps on the amount of energy that an load-serving entity ("LSE") can use towards its RPS goals from Buckets 2 and 3. There are no limits on the amount of renewable energy from Bucket 1 resources.

B. Overview of Reporting Process Generally

The three-tiered structure described above is a new addition to California's RPS program. As such, it will require certain modifications to the current reporting requirements. Any modifications, however, should take advantage of existing RPS processes in order to avoid unnecessary complications or interruptions in the flow of information regarding RPS resources.

In particular, because the RPS program is designed around an accounting of megawatt-hours ("MWh") generated by ERRs, and all retail sellers already submit documentation setting forth accounting information from specific contracts to the CPUC for RPS purposes, the three-bucket structure can very easily be incorporated into the existing RPS reporting process. This can be accomplished by assigning a product categorization to every MWh claimed for RPS credit that was produced pursuant to a contract executed (and when relevant, approved) on or after June 1, 2010.[4]

Because the product categorization does not apply to all MWh, however, each retail seller will ultimately need to include two showings within their RPS documentation. The first will be an overall showing of the quantity of MWh generated from all renewable resources across the compliance period. The second will be a showing of the subset of those total MWh which came

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[3] SCE addresses each of these categories more specifically later in this document, but believes these general descriptions, as well as those listed as "Consensus RPS Product Descriptions" in the RPS Product Matrix attached hereto as Appendix A, which was developed by various diverse stakeholders, provide a broad overview of the legislative intention behind each of the product categories. SCE supports the consensus positions set forth in the RPS Product Matrix.

[4] The product categorization would not apply to contracts that are grandfathered pursuant to Section 399.16(d).

from contracts to which the product categorization applies, broken out by category as a percentage of the subset.

For example, if a retail seller with a 100 MWh total RPS goal in a compliance period obtained 50 MWh of that portfolio from relevant contracts signed on or after June 1, 2010, the product categorization percentages set out in Section 399.16(c) would only be pertinent to the 50 MWh subset of the total amount. The incorporation of product categorization into the RPS in this manner is the only way to give meaning to the legislation's intent to apply these limits prospectively. Such a mechanism also has the added benefit of leveraging established reporting and documentation processes, rather than requiring the complete restructuring of the process of documenting retail sellers' progress under the RPS program.

C. Overview of the Verification Process Generally

One of the biggest challenges to implementation of the product categorization portions of SB 2 (1x) in the near term will be verification. The verification system currently used by the RPS program – the Western Renewable Energy Generation Information System ("WREGIS") – does not currently contain mechanisms for documenting the vast amounts of e-tag, metering, and schedule data that will ultimately be part of the incorporation of these product categories into the RPS program. Accordingly, until automated processes can be put in place to document and verify accounting for product categories, the only process that will quickly, fairly, and efficiently allow for regular reporting of progress with regard to product categorization is one that allows retail sellers to identify the subset of MWh in the various buckets in their regular RPS reports, and which allows verification to occur through an audit process at some point after the information is submitted. This means that a retail seller would submit its showing, identifying the MWh subject to the product categorization limits, but not submit e-tag, schedule, metering, and any other supporting data that provides evidence of the product categorization at the time of the showing. Instead, the retail seller would maintain that information in its own records until it is requested by the CPUC for verification purposes.

Any other process that requires the submission of e-tag, schedule, metering, and potentially other information evidencing the product categorization for each MWh, either upfront or as part of an RPS showing, would overwhelm any agency tasked with reviewing such documentation as well as any entities tasked with the gathering of such materials, potentially several times a year. While the goal is to allow for the verification to be automated in the future, the reality is that there is currently no system that, in the near term, can gather all of the data necessary to operationalize and document the product categorization language. This weighs heavily in favor of implementing a product categorization approach that allows for an after-the-fact verification of the appropriateness of a retail seller's product categorization.[5]

II.

SCE'S RESPONSES TO SPECIFIC QUESTIONS IN THE RPS CATEGORIES RULING

Below are SCE's specific responses to the 24 questions posed in the RPS Categories Ruling.

1. Section 399.16(b)(1) describes "eligible renewable energy resource electricity products" that meet certain criteria. "Electricity products" is not defined in the statute. Should this term be interpreted as meaning "RPS procurement transactions"?

Section 399.16(b)(1) provides a description of products that, broadly speaking, are interconnected with a CBA at the transmission or distribution level, or that are directly scheduled into a CBA on an hourly or sub-hourly import schedule. Section 399.16(b)(1) does not describe discrete transactions required to meet the specifications, but rather describes how the electricity products should be delivered to a retail seller to qualify as Bucket 1 products. Therefore, the

[5] Notably, the CPUC can also use other mechanisms at its disposal to gather information about product categorizations in the time period between RPS showings. Specifically, the CPUC can use the RPS planning process as well as the advice letter process to obtain information about how new deals might fall into the different product categories or to obtain information about what types of products retail sellers intend to use to meet their RPS goals.

term "electricity products" should not be understood to mean "RPS procurement transactions." Rather, "electricity products" should be defined and measured on a MWh basis. This supports not only the language of the RPS statute with regard to product categorization, but also the legislation's overall intent to have an RPS program that is assessed on a MWh basis.

Indeed, the language of SB 2 (1x) supports interpreting product categories as product-based and not transaction-focused.[6] Additionally, the RPS program is based on accounting for MWh produced. Section 399.16(c) recognizes this fact by noting that the targets for each product category should be assessed "for all procurement credited towards each compliance period." As noted above, the RPS program does not credit specific transactions; instead, it looks at quantities of MWh. Section 399.16 recognizes this RPS program reality and addresses products within the overall context of an RPS program that is quantified on an MWh basis.

Furthermore, interpretation of the phrase "electricity products" to mean "RPS procurement transactions," as provided in the RPS Categories Ruling, is not accurate and limits the types of products that will qualify under Bucket 1. First, the use of the term "procurement" is too narrow. The term should be broad enough to include both those products procured by retail sellers and publicly-owned utilities ("POUs"), and products generated through utility-owned generation. Second, the term "transactions" suggests that compliance will be determined based on the number of transactions, rather than according to MWh. This will be a challenge in compliance showings because a single transaction can be composed of more than one product. A count of transactions would be misleading and consistently discount the number of MWh a retail seller or POU will be able to report.

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[6] *See, e.g.*, Cal. Pub. Util. Code § 399.16(a) ("Various electricity products from eligible renewable energy resources . . . shall be eligible to comply with the renewables portfolio standard procurement requirements in Section 399.15."); Cal. Pub. Util. Code § 399.16(b) ("Consistent with the goals of procuring the least-cost and best-fit electricity products . . . a balanced portfolio . . . shall be procured consisting of . . . [e]ligible renewable energy resource electricity products. . . .").

2. **Should the first sentence of § 399.16(b)(1)(A) be interpreted as meaning: "*The RPS-eligible generation facility producing the electricity has* a first point of interconnection with a California balancing authority, *or has* a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or *the electricity produced by the RPS-eligible generation facility is* scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source."**

The intention behind Bucket 1 was to encourage the procurement of resources that are directly interconnected to, or directly scheduled to a CBA. Accordingly, any ERR demonstrating any of the aforementioned characteristics should be included in Bucket 1.

3. **Please provide a comprehensive list of all "California balancing authorit[ies]" as defined in new § 399.12(d).**

ERRs that are directly interconnected to, or scheduled into a CBA, must be interconnected to one of the five CBAs listed below to be counted towards Bucket 1. These CBAs include the California Independent System Operator ("CAISO"), Sacramento Municipal Utility District ("SMUD"), Los Angeles Department of Water & Power ("LADWP"), Turlock Irrigation District ("TIDC"), and Imperial Irrigation District ("IID").

4. **How should the phrase in new § 399.16(b)(1)(A) ". . . scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source" be interpreted? Please provide relevant examples.**

As noted above, the primary intention behind Bucket 1 is to ensure that electricity that is produced through transactions where resources can demonstrate that they are electrically interconnected to a CBA, or that they can provide electricity from an ERR to a CBA on an hourly or sub-hourly basis, make up the majority of RPS portfolios going forward. Therefore,

the language cited above should be interpreted to mean that only the portion of electricity from an ERR can count toward the overall RPS goal and toward Bucket 1 targets. While the drafters of SB 2 (1x) recognized that the realities of scheduling electricity on an electrical system-wide basis required the use of conventional resources, they did not mean to prevent generation from out-of-state renewables, which could provide electricity to California on an hourly or sub-hourly schedule, from falling into the most-favored of product categories. Accordingly, the language must be interpreted to allow products that are generated by an ERR and scheduled into a CBA using an hourly or sub-hourly schedule to count as Bucket 1 products. To the extent that electricity from a conventional resource is used to make up for shortfalls in the scheduled amount (e.g., through ancillary services), only the portion of the electricity generated from an ERR that is delivered into the CBA will qualify as a Bucket 1 product. This is consistent with the RPS Product Matrix consensus position set forth in Appendix A.[7]

Below are some examples of how this might apply to the electricity produced under certain commercial arrangements:

- Example 1: An ERR located in Oregon generates 100 MWh directly scheduled into a CBA using an hourly or sub-hourly import schedule. If all 100 MWh are delivered into the CBA, all 100 MWh would qualify as a Bucket 1 product.
- Example 2: Same facts as Example 1, however only 60 MWh from the ERR are delivered into the CBA because the ERR's generation was reduced. The 40 MWh difference between the scheduled amount and the generated amount is filled by a conventional resource or system imbalance energy. In this example, only the 60 MWh produced by the ERR scheduled to the retail seller or POU counts as a Bucket 1 product. As described in more detail below, the remaining 40 MWh would qualify as a Bucket 2 product. Figure 5 in Appendix B provides an illustration of this scenario.

[7] RPS Product Matrix at 5.

5. Does the inclusion of transactions characterized in #4, above, subsume or resolve the work done by Energy Division staff and the parties in response to Ordering Paragraph 26 of Decision (D.) 10-03-021, regarding transactions using firm transmission?

The inclusion of products in the form set out as examples above resolves the issues set forth in Ordering Paragraph 26 of D.10-03-021. As described in the response to Question #4, counting a product toward Bucket 1 does not require a showing of transmission rights. This is consistent with the precise statutory language of Section 399.16(b)(1)(A) which counts as Bucket 1 product that:

> . . . are scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source. The use of another source to provide real-time ancillary services required to maintain an hourly or subhourly import schedule into a California balancing authority shall be permitted, but only the fraction of the schedule actually generated by the eligible renewable energy resource shall count toward this portfolio content category.

This section of SB 2 (1x) does not mention transmission rights, much less *require* transmission rights. Therefore, the addition of transmission rights as a requirement of eligibility for Bucket 1 would unduly limit the types of products which would be eligible beyond what the legislature contemplated and authorized.

6. How would transactions characterized in #4, above, be tracked and verified? Please address the roles and responsibilities of both the [California Energy Commission ("CEC")] and the Commission.

As described in the Overview section above, the tracking of the transactions in Question #4 can be added to the documentation that is already part of existing RPS processes. In the biannual RPS filings, retail sellers can identify the subset of overall RPS MWh subject to product categorization and determine the percentage of those MWh to be included in each bucket. This will allow the CPUC to have visibility over the types of products with which RPS goals are

being met.[8] In the near term, however, verification will have to be done by an after-the-fact audit or assessment by the CPUC of what retail sellers have asserted are the appropriate categories for their products, with acceptable evidence of categorization including schedule, hourly meter data, and e-tags from the host balancing authority with updates from the "sink" balancing authority (i.e., the CBA), currently housed in the WREGIS database system.[9]

7. Please provide relevant examples of the situation described in the second sentence of § 399.16(b)(1)(A):

"the use of another source to provide real-time ancillary services required to maintain an hourly or sub-hourly import schedule into a California balancing authority. . ."

How should the subsequent qualifying phrase, "but only the fraction of the schedule actually generated by the eligible renewable energy resources shall count toward this portfolio content category" be interpreted in light of your response? Please provide relevant examples.

The phrase "but only the fraction of the schedule actually generated by the eligible renewable energy resources shall count toward this portfolio content category" in the first criterion of Bucket 1, has been referenced in the response to Question #4. The statement should be interpreted to mean that only the portion of the electricity produced by an ERR and scheduled into a CBA for a retail seller or POU will count as a Bucket 1 product; no ancillary services or system imbalance energy will count as a Bucket 1 product. The portion of electricity from an ERR can be used to count towards Bucket 1 goals, and the substitute electricity used to fill a schedule, because it cannot be tied to an ERR, should not count towards Bucket 1 goals.

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[8] Because there is currently no process in WREGIS, or other CEC process, for verification of product categorization, in the near term, responsibility for tracking and verification of product categorization should be with the CPUC. For POUs, the verification will necessarily have to be done by the CEC.

[9] Practically, this will mean that the CPUC will retain the ability to audit a portion of the overall RPS portfolio for any given retail seller with regard to the appropriateness of the bucket categorization, as it is unlikely that any agency will have a near term ability to verify all the data necessary for every single MWh that will fall into any given bucket.

8. Should § 399.16(b)(1)(B) be interpreted as meaning: "*The RPS-eligible generation facility producing the electricity has* an agreement to dynamically transfer electricity to a California balancing authority"?

Section 399.16(1)(B) is clear that electricity from an ERR that can be dynamically transferred counts toward Bucket 1. Notably, dynamic transfers are still relatively new for many renewable generators and the contours of what an agreement for dynamic transfer entails is still evolving.[10] The legislation recognizes this and does not precisely define what type of agreement is necessary. A dynamic transfer agreement essentially is an agreement to treat an out-of-CBA resource as if it was within the CBA. Accordingly, "agreement" in Section 399.16(1)(B) should be interpreted to mean any form of agreement between affected stakeholders to dynamically transfer electricity to a CBA.

For example, in the case of an ERR interconnecting to PacifiCorp's transmission system, as the host balancing authority, and delivering to the CAISO, as the sink balancing authority, both the host and sink balancing authorities require a dynamic transfer agreement with the ERR's scheduling coordinator. This arrangement is not necessarily part of one master agreement, and may in fact entail a set of agreements unique to the balancing authorities. Regardless, this arrangement should be viewed as an agreement for dynamic transfer.

An additional dimension of complexity is added to the task of defining an agreement if the path of a dynamic transfer crosses multiple balancing authorities (i.e., BPA to PacifiCorp, and then to CAISO). In such a circumstance, dynamic transfer agreements need to be put in place between BPA as the host balancing authority, PacifiCorp as the intermediate balancing authority, and the ERR's scheduling coordinator; a second set of agreements will be required between PacifiCorp as the intermediate balancing authority, the CAISO as the sink balancing

[10] Indeed, the CAISO is currently holding a stakeholder process to modify its tariff to expand opportunities for dynamic transfers by revising its dynamic transfer scheduling policies. Such opportunities would include dynamic transfer of intermittent and/or renewable resources into the CAISO from other balancing authority areas, and extension of pseudo-tie service to include intermittent and/or renewable resources. *See* http://www.caiso.com/informed/Pages/StakeholderProcesses/DynamicTransfers.aspx.

authority, and the ERR's scheduling coordinator. Again, this example demonstrates that there is currently no one way to define a dynamic transfer agreement.

As depicted by these examples, there may be multiple agreements which make up a dynamic transfer. Hopefully, dynamic transfers will increasingly become standardized; however, as they exist today, they are not. In order to give meaning to the legislature's clear desire to encourage dynamic transfer arrangements and to include them as Bucket 1 products, the CPUC must interpret the term "agreement" so as not to limit it to a particular form of writing or pattern of practice. Limiting the definition in this way would be contrary to the legislature's clear intent to encourage dynamic transfer arrangements, by limiting retail sellers' or POUs' ability to access non-CBAs.

9. <u>The phrase "unbundled renewable energy credit" (REC) is not defined in the statute. Should it be interpreted as meaning: "a renewable energy credit [as defined in new § 399.12(h)] that is procured separately from the RPS-eligible energy with which the REC is associated"?</u>

A REC is the unique certificate created for each MWh of renewable electricity produced by an ERR. This term is defined in Section 399.12(h). The full interpretation of an unbundled REC referenced in the question is accurate in most instances, but should be modified to capture the unique case where an unbundled REC can be reformed into a bundled product through a subsequent purchase of the underlying energy from the same facility. The phrase should be interpreted to read, "a renewable energy credit [as defined in new § 399.12(h)] that is procured as an unbundled product, and not later bundled with its electricity through a subsequent purchase."

The unique case of separate transactions of unbundled RECs and underlying electricity resulting in a bundled product begins with an initial purchase of an unbundled REC from a specific ERR. Through a separate transaction within a compliance period, the underlying energy associated with the unbundled REC is purchased from the same ERR within the same time period. In this case, the product should be classified as a bundled product because the REC and

electricity have been rebundled. It is critical to acknowledge this distinction, because the RPS program is a program governing product types, not transaction types.

10. "Unbundled renewable energy credits" are a type of transaction meeting the criteria of § 399.16(b)(3). Does § 399.16(b)(1) include any transactions that transfer only RECs but not the RPS-eligible energy with which the RECs are associated (for example, a transaction in which an RPS-eligible generator having a first point of interconnection with a California balancing authority sells unbundled RECs to a California retail seller)? Why or why not?

If your response is that unbundled REC transactions are or may be included in § 399.16(b)(1), please also address how a particular transaction can be characterized and verified as belonging in a particular portfolio content category.

The definition of a Bucket 1 product provides that the ERR be directly interconnected to a CBA at the transmission or distribution level, directly scheduled into a CBA, or dynamically transferred into a CBA. There are no other limits associated with Bucket 1. As such, the definition of Bucket 1 products includes unbundled RECs – as long as the ERR that created the unbundled RECs meets the minimum requirements for a Bucket 1 product (i.e., directly interconnected to a CBA's transmission or distribution level transmission, directly scheduled into a CBA, or dynamically transferred into a CBA).

One example of an unbundled REC that may be included in Bucket 1 is the REC associated with electricity produced and used by a resident using solar photovoltaic technology. While the resident uses the energy produced, so-called "behind the meter energy," the resident will also produce a REC which is disassociated from the underlying energy (e.g., RECs associated with the California Solar Initiative or distributed generation programs). Those RECs may at some point be sold to a retail seller or POU. Because they came from a facility that was

directly interconnected to a CBA at the distribution level, this limited set of unbundled RECs should be considered as part of Bucket 1.

11. Section 399.16(b)(3) includes "[e]ligible renewable energy resource electricity products, or any fraction of the electricity generated, including unbundled renewable energy credits, that do not qualify under the criteria of paragraph (1) or (2). "

- **Should the phrase, "or any fraction of the electricity generated" be interpreted as meaning "any fraction of the electricity generated by the eligible renewable energy resource"?**

The three-tiered approach to product categorization within the new RPS law is most easily understood if one considers Bucket 1 to encompass those renewable products that can provide electricity to a CBA on an hourly basis. Bucket 2 is most easily generalized as those renewable products that can provide electricity to a CBA on a time frame longer than an hour and shorter than a year. Bucket 3 is most easily generalized as evidence that a renewable generator produced electricity, although that electricity may not have been provided to a CBA in a manner allowed by the statute.

With this understanding in mind, statutory references to fractional quantities mean that any fraction of electricity generated by a renewable resource should be counted towards the bucket targets, and treated like a full delivery; the fact that only a subset (or fraction) of the electricity was delivered does not change the categorization of the electricity that originally qualified it to be counted in any particular bucket.

Accordingly, the interpretation provided in the ruling is correct. The phrase "or any fraction of the electricity generated" should be included in the definition of Bucket 3 products. Fractions of renewable generation should be retained and tracked by retail sellers and POUs and counted toward their RPS goals. If they are not, not only will customers lose the value of such resources, but SB 2 (1x)'s clear intention to count every MWh produced by an ERR and scheduled into a CBA will be thwarted.

- **What metrics should be used to account for "any fraction of the electricity generated?" Please address the time period that may be encompassed in your response.**

Metrics developed to count and track MWh to be included in the buckets, as well as for the overall RPS program, should be managed in a similar and consistent manner among both retail sellers and POUs. The total number of MWh counting toward a retail seller's RPS targets should be maintained in the retail seller or POU internal tracking systems. Fractions of MWh summing to one MWh will be reported during relevant compliance periods. If fractional portions remain after a compliance period, those should be bankable in accordance with the RPS program's banking rules.

- **How would the procurement of "any fraction of the electricity generated" be documented? Please address the roles of the Western Renewable Energy Generation Information System (WREGIS), the CEC, and this Commission.**

To the extent possible, WREGIS should be used to track fractional portions of any generation, regardless of the product type. WREGIS already has some of this functionality and carries over fractional amounts from month-to-month for any renewable resource. To the extent fractional amounts will require additional documentation for purposes of determining the product categorization, such as e-tag, schedule, or meter data, WREGIS does not currently have the capability to do such tracking, so any verification will require an assessment of a retail seller's or POU's e-tag, schedule, or meter data until WREGIS can be updated to increase its functionality for the new RPS program. Because of the large amount of data associated with a complete assessment, SCE recommends that verification be performed on a sample of the data, similar to an audit.

12. "Firmed" is not defined in SB 2 (1x). Please provide a definition or description of this term. Please include relevant examples.

The concept of firmed electricity exists for products in both Buckets 1 and 2 even though the legislation only refers to it for Bucket 2 products. For purposes of distinguishing between the buckets, it may be helpful to think of firming that occurs within the hour as relevant to Bucket 1 products, whereas a product that is firmed (or shaped, as described in Question #13) over a period longer than an hour (and up to one calendar year) is relevant to products in Bucket 2.

With this time dimension in mind as one way of differentiating how firming and shaping applies to different buckets, an appropriate definition of firmed electricity can be found in the CPUC's White Paper entitled, "Renewable Energy Certificates and the California Renewables Portfolio Standard Program."[11] There, firmed electricity refers to electricity used as a backup resource that is used to supplement the output of an intermittent resource to ensure that the total energy provided is sufficient to meet the schedule.[12] The definition mentioned above does not associate "firming" with any additional restrictions (e.g., quantity or price caps), other than system derating due to system emergencies. Similarly, in SB 2 (1x) the legislature did not include any additional limits on the term "firmed" which would limit the ability to use firming services as part of a product that is eligible for Bucket 2.

Firmed products can come from the host or sink balancing authority, from the resource buyer or seller, or an intermediary. An example of a firmed product which might be used to meet the RPS goals is energy used to balance the intermittent generation profile of a wind resource. The firmed product would ensure that a wind resource could be scheduled for delivery from an intermittent resource in a predetermined amount (generally 25 or 50 MWh increments), even though the resource itself might produce electricity in more variable amounts (i.e., on a schedule from 2 MWh to 50 MWh) within an hour.

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[11] *See* CPUC Division of Strategic Planning Staff White Paper, "Renewable Energy Certificates and the California Renewables Portfolio Standard Program," April 20, 2006.

[12] *Id.*, Appendix A at A-1.

13. <u>"Shaped" is not defined in SB 2 (1x). Please provide a definition or description of this term. Please include relevant examples.</u>

Similar to the definition of firmed electricity, shaped electricity also exists both in Buckets 1 and 2. Shaping that occurs within the hour, however, was not what the legislature had in mind when it limited certain products and thus should qualify as Bucket 1, whereas a product that is shaped over a period longer than an hour would be considered Bucket 2.

The definition of shaped electricity can also be found in the CPUC's White Paper entitled, "Renewable Energy Certificates and the California Renewables Portfolio Standard Program." Shaped electricity refers to resources that "must be used when their fuel is available, i.e., they are 'must-take' resources that are 'dispatched' on the basis of when the wind is blowing or when the sun is shining."[13] Because these ERRs' fuel types are highly variable, depending on sunlight or wind availability, their delivery across transmission lines can be shaped by matching delivery with a conventional generation source to provide schedule reliability. The ERR will deliver electricity to the retail seller or POU, as per the terms of the agreement between the two parties (e.g., quantity, schedule, point of delivery). Generation from the ERR is delivered to the retail seller at an agreed upon time and is typically provided in easily traded energy blocks (e.g., increments of 25 MW). For example, a wind facility may generate electricity in March and, after the wind's output is aggregated for the month, an equivalent amount of energy could then be scheduled to the retail seller or POU in April.

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[13] *Id.*

14. <u>"Incremental electricity" is not defined in SB 2 (1x). Please provide a definition or description of this term. Please also address:</u>

- **<u>How a particular transaction can be characterized as providing incremental electricity;</u>**

By definition, the word incremental means something additional or new to an existing pool. This understanding should be applied to "incremental electricity" to mean additional or new non-RPS electricity added to a retail seller's or POU's generation portfolio on or after June 1, 2010. For a Bucket 2 product to count toward the RPS goals, it will have to have its renewable attribute associated with electricity that was imported to California pursuant to an agreement occurring on or after June 1, 2010.[14] This construct is similar to the matching construct that exists now under the CEC's RPS guidelines.[15] Accordingly, "incremental electricity" in Section 399.16(b)(2) should be interpreted to require retail sellers and POUs to "match" the renewable attribute from an ERR to imported electricity that was not already in such retail seller's or POU's generation portfolio before June 1, 2010.[16]

Defining "incremental electricity" in a manner that recognizes something as incremental on or after June 1, 2010 makes characterizing a product or transaction very easy. If the transaction came from an import which occurred pursuant to a transaction whose execution date is on or after June 1, 2010, that transaction is considered "incremental energy."

Scheduling "firmed and shaped" incremental energy can be depicted through the following example: If electricity from the ERR is scheduled to deliver 100 MW and delivers 110 MW, then one of two things may happen. In one scenario, the excess 10 MW is sold into the local market, and the retail seller would retain the RECs associated with the generation. In this

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[14] June 1, 2010 is an appropriate date to choose as the baseline for the determination of when something is incremental because it is also the date chosen as the dividing point for which RPS generation is to be categorized under the three-tiered structure and which is not.

[15] *See* CEC, Renewables Portfolio Standard Eligibility Guidebook at 36-40, Fourth Edition, January 2011.

[16] The incremental imports need not have any term limits, price metrics, or other restrictions upon them. As long as the transaction for the import occurs after June 1, 2010, it would be considered "incremental" and could be matched with renewable attributes in order to qualify for Bucket 2.

case, 100 MW would count as Bucket 1 and 10 MW would count as Bucket 3 (see Figure 6 of Appendix B). In a second scenario, the RECs from the excess 10 MW sold into the local market are used to tag incremental generation coming into a CBA. In this case, 100 MW would count as Bucket 1 and 10 MW would count as Bucket 2 (see Figure 7 of Appendix B).

- **Whether there are or should be any more particular relationships between the generation of the RPS-eligible electricity and the scheduling of the "firmed and shaped" incremental electricity into a California balancing authority (for example, the electricity must be scheduled into a California balancing authority within one month of its generation; or, the energy that is delivered must come from generators in the same balancing authority area as the RPS-eligible generation);**

Keeping the goal of maintaining a simple and straight forward definition of "incremental electricity" in mind, the only additional relationship between the generation of the RPS-eligible electricity and the scheduling of the "firmed and shaped" electricity is the timing between when an RPS Identification ("ID") associated with the incremental RPS-eligible electricity generation is created, and when it needs to be attached to imported firmed and shaped electricity in order to count as Bucket 2. This process is currently the "matching" process associated with the counting of several out-of-state projects under the CEC's RPS guidelines.

To differentiate the products in Bucket 1 (which do not require matching) from those in Bucket 2 (which should), SCE suggests that the process of attaching RPS IDs from incremental ERRs to the e-tags of firmed and shaped products should take place within one calendar year of the electricity generation. A calendar year would provide sufficient time to tag incremental energy with an RPS ID, given the seasonality of renewable energy generation (e.g., the influx of hydro generation in spring), and limitations associated with meter data (e.g., 45-day true up of meter data before it is considered final). It would also be consistent with what is currently allowed to leverage an existing WREGIS functionality for accounting and verification purposes.

This means that, for example, an e-tag for an import into a CBA from a conventional incremental import can be tagged with an RPS ID, as long as the agreement for the import occurred on or after June 1, 2010. For example, imported electricity from the California Oregon Border ("COB") from an agreement executed on or after June 1, 2010, can be assigned an RPS ID, and then be matched to the renewable attribute of a renewable generator within a year.

- **Whether the definition proposed is based on contract terms or on the characteristics of the electricity that is ultimately delivered into a California balancing authority.**

As stated in Question #14(a) above, the definition proposed is based on whether the agreement for the import was entered into on or after June 1, 2010. Accordingly, the definition is based on the date of the agreement for the import, rather than on the characteristics of the electricity that is ultimately delivered into a CBA.

15. **Should § 399.16(b)(2) be interpreted to refer only to energy generated outside the boundaries of a California balancing authority, or may it refer also to energy generated within the boundaries of a California balancing authority? Please provide relevant examples.**

The defining characteristic of a Bucket 1 product is that it is directly connected to a CBA or directly scheduled into a CBA. Any facility that meets either of these criteria should then be classified as a Bucket 1 product. Interconnection into a CBA is a discrete characteristic, a facility is either connected to a CBA or is not; there is no partial connection into a CBA. Because direct connection into a CBA is unique to a Bucket 1 product, Bucket 2 should be interpreted to refer only to electricity generated outside the boundaries of a CBA and imported into a CBA. Electricity generated within a CBA that otherwise relies on the firming and shaping structure described in Section 399.16(b)(2) is a Bucket 1 product. This is an important point of clarification. The CPUC should clarify that only electricity generated outside the CBA with the

characteristics described by statute can be deemed a Bucket 2 product; electricity generated within the CBA can under no circumstance be deemed a Bucket 2 product.

- **Should this section be interpreted as applying only to transactions where the RPS-eligible generation is intermittent? Is the location of the generator within or outside of a California balancing authority area relevant to your response?**

Bucket 2 products are not defined by a generator's delivery profile. Bucket 2 products are defined by where the generator is interconnected, and whether firming and shaping take place over a period longer than an hour but within a calendar year. As such, whether a resource is intermittent or not, is not a defining characteristic for Bucket 2 products. Bucket 2 therefore includes some products that are intermittent generation and some that are non-intermittent.

16. **Should the requirement in § 399.16(b)(1)(A) that the generation must be "scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source" be interpreted to mean that no firmed and shaped electricity, as set forth in § 399.16(b)(2), may be considered as meeting the requirements of § 399.16(b)(1)(A)? Please provide relevant examples.**

Firmed and shaped products exist in both Bucket 1 and Bucket 2, distinguished by the timing of when firming and shaping take place. If a generation is scheduled hourly, it qualifies as a product for Bucket 1 and anything that is scheduled over period longer than that qualifies as Bucket 2. Accordingly, the important distinction that should be drawn is that those portions of a renewable resource that are scheduled hourly to a CBA (as later shown by e-tags, schedules, and/or meter data) be considered Bucket 1. Those portions of such a resource that cannot be scheduled hourly to a CBA, would fall into Bucket 2.

To not count the portions of such a resource that can be scheduled into a CBA on an hourly basis as Bucket 1, simply because the physical realities of the transmission system require

the use of intra-hour firming and/or shaping, subverts the legislation's clear intention to allow products from out-of-state resources, which can be scheduled hourly, to be eligible for Bucket 1 categorization.

17. **Section 399.16(d) provides that: "Any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full towards the procurement requirements established pursuant to this article, if [certain] conditions are met. . ."**

- **How should the phrase "ownership agreement" be interpreted in this context? Please provide relevant examples.**
- **How should the phrase "count in full" be interpreted? Include consideration of:**

  a) The requirements in D.07-05-028 (implementing current § 399.14(b)) that, in order for procurement from a short-term contract with an existing facility to count for RPS compliance, a minimum quantity of contracts longer than 10 years and/or contracts with new facilities must be signed in the same year as the short-term contract sought to be counted;

  b) The requirement in new § 399.13(b) for minimum procurement from contracts of at least 10 years' duration;

c) The restrictions set out in new § 399.13(a)(4)(B) on the use of procurement from contracts of less than 10 years' duration and on procurement meeting the portfolio content of § 399.16(b)(3) in accumulating excess procurement that can be applied to subsequent compliance periods.

Section 399.16(d) describes all products that will count in full towards the RPS if executed prior to June 1, 2010. The section includes "any contract or ownership agreement" to reflect the universe of how electricity is procured or built by a retail seller or POU. The phrase "ownership agreement" in Section 399.16(d) is intended to refer to generation owned and built by a retail seller or POU (e.g., utility-owned generation). Since contracting and owning reflect the universe of how a retail seller or POU can deliver electricity to their customers, both methods should "count in full" towards the RPS if executed prior to June 1, 2010.

The terms "contract" and "ownership agreement" should be construed broadly, to refer to agreements, including letter agreements, amendments, modifications to contracts, and utility owned generation. Likewise, "ownership agreement" should be construed to include ownership of a generating facility, whether such ownership is full or partial or memorialized through a contract or agreement.

Associated with the definition of "count in full" is the term "grandfathering." Pursuant to Section 399.16(c)(1), only contracts executed on or after June 1, 2010 are included in one of the three buckets. As such, generation from contracts or utility-owned generation signed or built before June 1, 2010, will not be subject to categorization in any bucket, and will therefore not be subject to the restrictions imposed for resources in any particular bucket. This means that contracts executed prior to June 1, 2010 should count in full and be fully bankable for RPS compliance purposes, regardless of which bucket they would have fallen into if they had been executed on or after June 1, 2010.

The intention behind the legislation was clearly to create a program that looked forward and not backward. The grandfathering language signals the intention to do this with regard to

the product categories and the treatment of contracts executed prior to June 1, 2010. In addition, applying the language in this fashion simply makes sense. When parties executed these contracts, they did so based on the known regulatory framework at the time. If it did not grandfather these contracts, the CPUC would effectively modify the benefit of the bargain between the parties after-the-fact. Such an action would be fundamentally unfair. Accordingly, the grandfathering of contracts should not simply apply to the buckets set forth in SB 2 (1x), it should honor the legislation's intention to count those resources "in full toward the procurement requirements established pursuant to this article."[17]

18. Please discuss the relationship between the instruction in § 399.16(d), set forth above, and the rules for the use of tradable RECs (TRECs) set out in D.10-03-021 (as modified by D.11-01-025), and in D.11-01-026 (for example, temporary limits on TRECs usage; application of the temporary TREC limits to previously signed contracts).

D.10-03-021, D.11-01-025 and D.11-01-026 (the "TREC Decisions") authorized the use of TRECs and provided a framework within which such TRECs could count towards RPS compliance under the prior RPS law.

The framework set forth in the TREC Decisions has been modified substantially by the SB 2 (1x). The main ways in which SB 2 (1x) differs from the TREC Decisions are as follows:

- The TREC Decisions distinguished between bundled transactions and REC-only transactions, whereas the SB 2 (1x) creates a three bucket system;
- The TREC Decisions imposed a limit on the use of TRECs. The concept of TRECs is not included in SB 2 (1x) and the three product categories are subject to minimum and maximum amounts which do not correspond to the limits used in the TREC Decisions;
- The "grandfathering" rules and date differ;

[17] Cal. Pub. Util. Code § 399.16(d).

- The TREC Decisions include a temporary limit on the price a utility could pay for TRECs, which was set to expire on December 31, 2013, whereas the SB 2 (1x) is silent on the issue of a price cap;
- The TREC Decisions do not apply to POUs, whereas the SB 2 (1x) does; and
- The TREC Decisions directs the Energy Division to determine how to classify transactions for RPS procurement that include firm transmission arrangements that are not dynamically transferred to a CBA. The SB 2 (1x) provides for such classification.

Because the TREC Decisions were part of the previous and very different RPS program, and they have yet to be fully integrated into that program, and because they include restrictions which were not contemplated in the recently passed SB 2 (1x), the TREC Decisions should be vacated.[18] With the passage of SB 2 (1x), California's rules for the treatment of RECs have been rewritten, thus rendering the rules for TRECs set forth in the TREC Decisions moot and their bases outdated. SB 2 (1x) leaves no need to attempt to shoehorn the TREC Decisions into the new RPS program.

19. When should the portfolio content limitations set forth in § 399.16(d) go into effect (for example, January 1, 2011; or the effective date of SB 2 (1x); or the date of the Commission decision implementing § 399.16)?

The intention of SB 2 (1x) is to begin the new RPS program on January 1, 2011.[19] As a part of this new legislation, the product categorization and portfolio content limitations should also be effective as of January 1, 2011.

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[18] The portions of D.11-01-026 that do not address TRECs need not be vacated.

[19] *See* Cal. Pub. Util. Code § 399.13(a)(4)(B) (noting that bank should only be allowed to accumulate as of January 1, 2011); Cal. Pub. Util. Code § 399.15(b)(1)(A) (noting RPS goals that begin on January 1, 2011); Cal. Pub. Util. Code § 399.15(b)(1)(B) (noting the first compliance period beginning on January 1, 2011).

20. SB 2 (1x) amends Pub. Res. Code § 25741 to, among other things, eliminate the current requirement that RPS-eligible energy must be "delivered" to end-use retail customers in California. The requirement for delivery is implemented by the CEC in its Renewables Portfolio Standard Eligibility Guidebook (RPS Eligibility Guidebook) (3d ed. December 19, 2007). It is also incorporated into the characterization of a REC in D.08-08-028.

- **At what point in time should the Commission consider the "delivery" requirement ended (e.g., on the effective date of SB 2 (1x); or as of January 1, 2011; or on the effective date of the CEC's revisions to the RPS Eligibility Guidebook reflecting the repeal)?**
- **Does the "delivery" requirement end at that time for generation under RPS contracts of utilities that were already approved by the Commission? Only for generation under contracts signed by utilities after the end of the delivery requirement?**
- **How should the plan you propose be applied to ESPs? to CCAs?**

Because SB 2 (1x) was clearly intended to begin on January 1, 2011, the delivery requirement should be eliminated as of January 1, 2011. Additionally, for those contracts executed before June 1, 2010 (and later approved), the obligation to demonstrate delivery should no longer apply on or after January 1, 2011. This position eliminates the need for keeping two sets of books, namely one for those contracts signed during the previous RPS program and a separate one for contracts to which the new RPS program applies. The radical overhaul of the RPS program from an annual program to a multiyear construct, the addition of product categories, and the increasing of targets alone indicate the legislature's intent to overhaul elements of the RPS program. The elimination of the "delivery" language was part of this overhaul and should be interpreted to mean that it is no longer necessary to show "delivery" for

purposes of establishing compliance under the RPS program, as that was previously defined in statute, in order to have an RPS eligible product.

21. <u>What documentation or descriptions should be required in an advice letter to enable Energy Division staff to confirm the portfolio content category of transactions submitted by utilities for Commission approval?</u>

Investor-owned utility ("IOU") contracts are typically approved through an advice letter process. This process can be modified to include information regarding an IOU's product categorization, as well as an updated forecast of how this new contract might affect an IOU's status with regard to the bucket limits and progress towards its overall RPS goal. Such information is akin to the delivery structure information or description of energy management already included in advice letters and its inclusion should not be difficult. If used in this way, the advice letter process can serve as a useful tool for gauging where the IOUs are in terms of progress toward the goal, in between the time periods for more formalized RPS reporting.

What the advice letter process cannot and should not seek to do, however, is determine in advance how a resource will be categorized. Because the exercise of product categorization will necessarily depend on which contracts actually produce electricity, and on the unique characteristics of how the MWh was actually treated once produced, an advice letter approved years before an ERR becomes commercially operational cannot definitively serve as the last word in how electricity generated by the ERR will count within the product categorization portion of the new RPS program.[20]

[20] The question recognizes that the advice letter process is currently only applicable to IOUs. A similar process for updating the CPUC about product category progress for other retail sellers should be developed as part of the RPS planning cycle so that transparency can also surround the progress of non-IOU retail sellers toward the product category targets.

22. Is any post-contracting verification of the portfolio content category needed to track and determine compliance with RPS procurement obligations for utilities? for ESPs? for CCAs? If yes, is the CEC responsible for undertaking it? is the Commission?

- **What information would be required for such verification?**
- **Would any changes be needed to WREGIS to accommodate your proposal?**

Post-contracting verification will need to take place to determine compliance. The advice letter process for IOUs described in Question #21 will only include a preliminary prediction of the product categorization. Post-contracting verification will be needed to accommodate changes to the product categorization, which may change based on fluctuations due to market changes and transmission curtailments. The same process for post-contracting verification should apply to all retail sellers as well as to CCAs and ESPs.

Notably, for the reasons state above regarding the lack of automated systems for instant product category verification, and the necessity for post-contracting and post-reporting verification, it will be important for the CPUC to recognize that any after-the-fact categorization for bucket purposes cannot affect the cost recovery granted to IOUs upon contract approval beyond current contract management requirements. Inserting any uncertainty into the cost recovery process for RPS contracts was not part of the legislature's intent when adopting the product buckets and should not be at issue during the implementation of this new program.

23. Reviewing your proposals above, please describe the value to the buyer, the seller, and ratepayers of transactions in each portfolio content category. Identify the direct and indirect costs that would be associated with transactions in each category.

Bucket 1 promotes renewable project development within CBAs, as well as some products located outside the CBAs that can demonstrate the ability to be scheduled within the hour. Because of the statute's emphasis on ensuring that the majority of new additions to retail

sellers' portfolios come from such products, the market will likely place a high value on these products and that will manifest in the highest prices being offered for products which fall into this bucket. Other market effects, such as increased demand for dynamic transfer capability and for direct interconnection to CBAs may also be driven by the demand for these products.

Bucket 2 recognizes that there is value in out-of-state resources which cannot be scheduled within the hour because of the physical realities of the electrical system. Although limited, the bankability and flexibility of these resources will allow retail sellers to have access to products which may provide some cost competition to those in Bucket 1.

The legislature's clear limitation on quantities and bankability of Bucket 3 resources indicates that this resource is the least favored of the three buckets. This position will make it substantially less expensive than products in the other two categories. Because the products are not bankable, they are only likely to be used when a retail seller has a clear compliance need. RECs do not have geographic limitations, are fungible, and are easy to contract for, and are thus the most competitive product. This is a direct benefit to buyers, sellers, and ratepayers.

24. The First Extraordinary Session of the Legislature is still in session. Because SB 2 (1x) becomes effective 90 days after the end of this special session, the provisions of SB 2 (1x) will not be in effect until mid-October 2011, at the earliest, and the end of 2011, at the latest. Please review your proposals and identify any issues of timing that should be addressed. Should the Commission simply carry forward the existing RPS rules through calendar year 2011? Why or why not?

The CPUC should implement SB 2 (1x) as soon as is feasible. Because SB 2 (1x) sets forth rules governing procurement of RPS products, SCE needs to know how products will be defined and what its procurement targets will be in order to most effectively determine which products it should select in its current 2011 RPS solicitations. Currently, the CPUC's schedule for the 2011 RPS solicitation sets a shortlisting date of August 2011. After shortlisting, the IOU will begin negotiation of contracts. Ideally, a decision on product definitions will consider this

date and allow for contract negotiations to be conducted with the backdrop of a complete RPS regulatory landscape.

The previous RPS program should end as of December 31, 2010. All parties should conduct their transactions as though SB 2 (1x) is in effect. Once SB 2 (1x) becomes effective, the effective date should be January 1, 2011.

III.

CONCLUSION

For all the foregoing reasons, SCE urges the CPUC to implement a RPS program in accordance with the comments provided herein.

Respectfully submitted,

JENNIFER TSAO SHIGEKAWA
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Dated: August 8, 2011

VERIFICATION

I am a Manager in the Renewable and Alternative Power of Southern California Edison Company and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in the foregoing pleading are true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this **8th day of August, 2011**, at Rosemead, California.

/s/ Laura Genao
By: Laura Genao

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Appendix A

RPS Product Matrix

Note: The following table was produced by a broad group of stakeholders in order to develop a common conceptual framework for discussing the RPS Product Content Requirements, identifying where stakeholder consensus exists, and allowing individual comments to focus on the identified open issues in the last column. The following stakeholders participated in discussions regarding this table and its refinement based on those discussions: Coalition of California Utility Employees; Division of Ratepayer Advocates; enXco; First Solar; Iberdrola; Independent Energy Producers Association; Large-Scale Solar Association; NextEra; Pacific Gas and Electric Company; San Diego Gas and Electric Company; Southern California Edison; Sunpower; The Utility Reform Network; and the Union of Concerned Scientists.

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
What Procurement is Affected?	***399.16(c)*** *"eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010"*	"bundled purchase" means the purchase of RPS-eligible energy plus the associated Renewable Energy Credit (REC) "unbundled REC" means the REC associated with the RPS-eligible energy separate from the associated energy	(1) Contract amendments or modifications occurring after June 1, 2010 unless such amendment or modification is grandfathered under the provisions set forth in 399.16(d)(3); (2) New contracts with existing facilities (i.e., recontracting) after June 1, 2010, unless such contract is grandfathered under the provisions set forth in 399.16(d)(3); (3) Any contract executed under an approved IOU Photovoltaic PPA program after June 1, 2010; (4) Engineering, Procurement and Construction or Build Own Transfer	

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
			contracts for renewable utility owned generation (UOG) executed after June 1, 2010; (5) Any Feed in Tariff contract (ie., AB 1969, SB 32, Renewable Auction Mechanism, etc.) executed after June 1, 2010; (6) Any enrollment in the IOU net energy metering (NEM) program for surplus distributed generation (i.e., including but not limited to participants in California Solar Initiative and Self-Generation Incentive Program) after June 1, 2010. (7) Bilaterally-negotiated transactions after June 1, 2010; (8) Any new renewable energy resource contract executed after June 1, 2010, including purchases of unbundled RECs associated with generation under any of the above contract structures.	

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
Bucket #1(a)	***399.16(b)(1)(A): [addressing point of interconnection of facility]*** "*Have a first point of interconnection with a California balancing authority*"	Facility must be an eligible renewable energy resource located within the WECC and Facility must be directly interconnected to a California Balancing Authority (CBA). CBAs include CAISO, LADWP, TID, IID, and Balancing Authority of Northern California (formerly SMUD). • Any transaction for a product from an eligible renewable generator physically connected to any CBA • Any transaction for a product from an eligible renewable generator located outside of a CBA, but which directly interconnects to a CBA through a gen-tie. • "gen-tie" means an electrical conductor directly connecting the generation unit to a CBA	• Bundled procurement from eligible renewable generator physically connected to any CBA, including utility-owned generation (UOG) • NEM surplus sales	• Should the CPUC establish a standard in advance for identifying future or additional CBAs now, or should that process wait until there is some change in the current CBA lineup?
Bucket #1(b)	***399.16(b)(1)(A): [addressing point of interconnection of facility]***	Facility must be an eligible renewable energy resource located within the WECC and Facility must be directly interconnected to the distribution system	• Bundled procurement from distributed generation facility interconnected at distribution level of any CBA, including UOG	• Do RECs associated with generation within a CBA area that serves load "behind-the-meter" (ie.,

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
	"[*H*]*ave a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area…*"	located within a CBA's area. • Any transaction for a product from an eligible renewable generator physically connected to distribution facilities serving end use customers in a CBA. • Any transaction for a product from an eligible renewable generator located outside of a CBA, but which directly interconnects to a CBA's distribution facilities through a gen-tie. • "gen-tie" means an electrical conductor directly connecting the generation unit to a CBA	• NEM surplus sales	CSI/NEM or industrial RPS generation serving on-site load) qualify as Bucket 1 if they are sold (unbundled) to a (1) the retail seller that is also buying the energy, or (2) another RPS-obligated retail seller? • In general, should the "bucket" attribute of a REC remain with the REC until it is retired for compliance, no matter how many times it is traded as an unbundled product in the secondary market? If so, how can the bucket attribute of a REC best be tracked?

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
Bucket #1(c)	***[399.16(b)(1)(A): re specific types of commercial transactions]*** *"... or are **scheduled** from the eligible renewable energy resource into a California balancing authority **without substituting electricity from another source**. The use of another source to provide real-time ancillary services required to maintain an hourly or subhourly import schedule into a California balancing authority shall be permitted, but only the fraction of the schedule actually generated by the*	• Energy must be scheduled to a CBA from an eligible renewable energy resource ("ERR") located within the WECC and documented using E-tag information for generator source and delivery sink. • Schedule into the CBA may be day-ahead, hourly, or sub-hourly. • No specific transmission rights are required. • Only the lesser of ERR metered-data and the final adjusted E-tags is eligible as "Bucket 1(c)". • Import schedules may be firmed within the hour through the use of ancillary services markets, including intra-hour balancing services.	• Generator located in the Pacific Northwest schedules 100 MWh into CAISO over time period X. In that time period, generator meter data shows generation of 90 MWh, and final adjusted E-Tags show delivery of 100 MWh. Retail seller will receive 90 MWh of Bucket 1(c) credit from this resource over this time period. • Over time period Y, Generator scheduled 100 MWh, but 110 MWh is actually generated; 100 MWh would be reflected on the E-tag and is counted for "Bucket # 1(c)."	• Over what period of time may the facility's meter data be netted against the final adjusted E-tags from the contract? Hourly? Monthly? • What additional technology, data, or systems, if any, are needed to track, compute, and produce for verification these comparisons of meter data with final adjusted E-tags? How does the answer to this question impact the feasibility or reasonableness of any particular netting period, as discussed in the bullet above?

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
	eligible renewable energy resource shall count toward this portfolio content category."			

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
Bucket #1(d)	**399.16(b)(1)(B):** **[re dynamically scheduled transactions]** "*Have an agreement to dynamically transfer electricity to a California balancing authority.*"	• Any transaction in which the energy from an ERR located within the WECC is dynamically transferred into a CBA; • Able to show agreement between generator and CBA (and, if necessary for a pseudo-tie, with the host BA) that allows for the CBA to dynamically transfer the electrical output from the eligible renewable resource to serve CBA load.	• Qualifying interconnection agreements include pseudo-tie agreements and dynamic scheduling agreements (or functional equivalent). • Bundled deliveries pursuant to a dynamic transfer agreement (or functional equivalent).	
Bucket #2 ***"FIRMED AND SHAPED TRANSACTIONS"***	**Section 399.16(b)(2):** "***Firmed and shaped*** *eligible renewable energy resource electricity products providing* ***incremental electricity*** *and scheduled into a California balancing authority.*"	• Electricity products must derive from eligible renewable energy resources located with the WECC. • REC must be "E-tagged" to energy scheduled for delivery to a CBA; • Energy to which the REC is "E-tagged" must be "incremental" • Energy to which the REC is "E-tagged" must have been delivered to the CBA within the same calendar year of the	• Retail seller buys bundled product of energy and RECs from an ERR not located in a CBA. Energy is immediately sold off locally. Retail seller tags the RECs from the RPS PPA to the E-tags for the imported incremental energy within the same calendar year that the RECs were generated. • Procurement of bundled product from ERR outside of a CBA. ERR intends generally to qualify as	• What is the definition of "incremental electricity?" • Are there any additional attributes or contract structures that must be included to qualify procurement as a "firmed and shaped" product (i.e., concurrent procurement, fixed price agreement, etc)? • Should there be a grace

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
		creation of the REC within WREGIS.	Bucket #1(c) by scheduling imports directly into a CBA. However, ERR cannot transmit its full contract quantity into a CBA within the time period specified for Bucket #1(c). In the same time period, ERR delivers a firm schedule for import into the CBA using some substitute energy. The "stranded" RECs are tagged to the substitute energy within the same calendar year and qualify as Bucket #2.	period beyond the calendar year during which the tagging process may be "trued up?" • Must the term of the firming and shaping agreement described in the first illustrative contract structure match the term of the RPS PPA producing the RECs? • What other contract structures or variations on the consensus contract structures qualify as bucket #2?
"Bucket #3" ***All Other RPS Products***	**[Section 399.16(b)(3):]** **"***Eligible renewable energy resource electricity products, or any fraction of the electricity generated,*	• Any certificate registered within the Western Renewable Generator Information System (WREGIS) that does not qualify as Bucket 1 or Bucket 2. • No energy and/or capacity need be associated with this type of	• Retail seller procures unbundled RECs from an ERR located within WECC, but not in a CBA. Retail seller does not "tag" these RECs to any energy. • Energy to which a REC generated by a non-CBA facility is tagged is	

Issue or RPS Portfolio Content Category Requiring Interpretation	New Statutory Language (from SB 2 (1X))	Consensus RPS Product Description	Consensus Illustrative Contract / Interconnection Structures	Open Issues (No Consensus)
	including unbundled renewable energy credits, that do not qualify under the criteria of paragraph (1) or (2)."	transaction.	imported outside the same calendar year or is not "incremental."	

Appendix B

Illustration of RPS Product Categories

Figure 1
Generation within a California balancing authority – Bucket 1

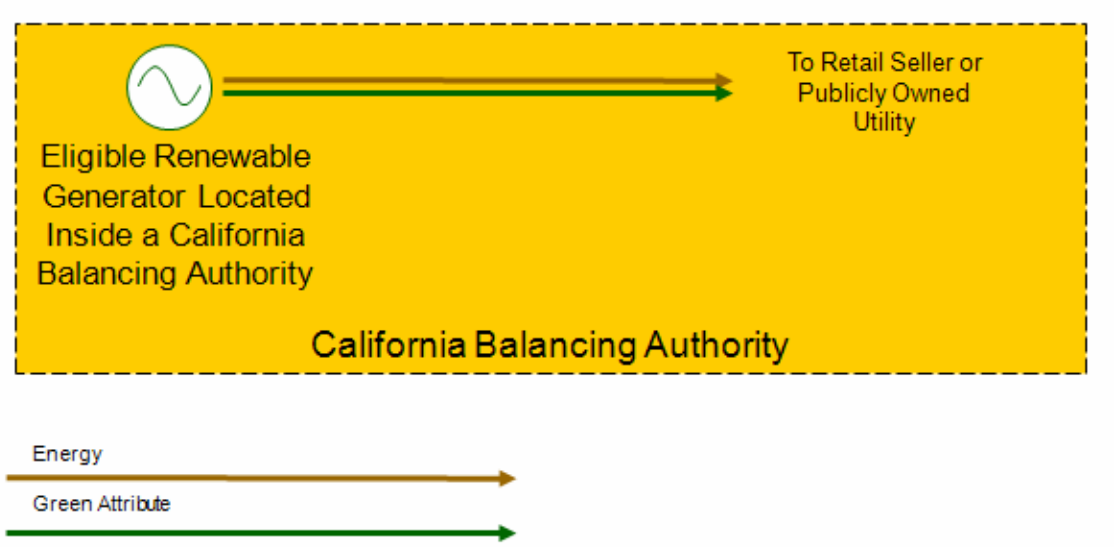


Figure 2
Direct Delivery – Bucket 1 (Simplified)

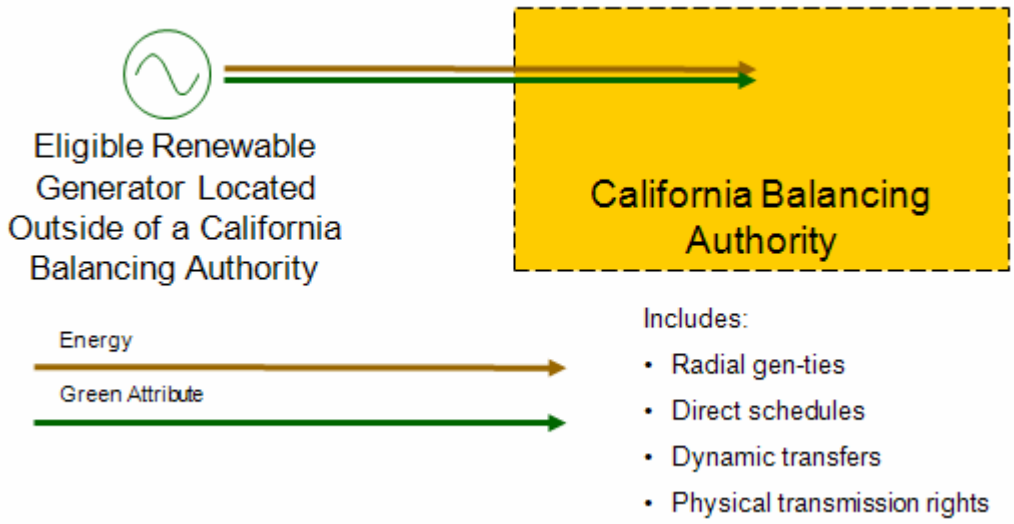


Figure 3

"Firmed and Shaped" – Bucket 2 (Simplified)

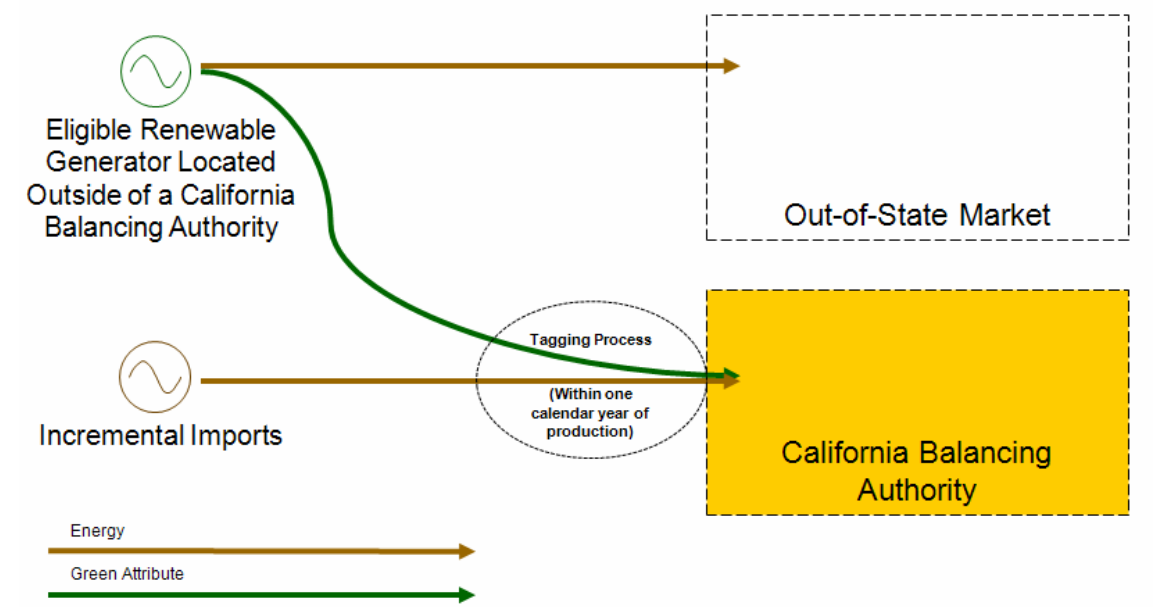


Figure 4
Unbundled REC – Bucket 3 (Simplified)

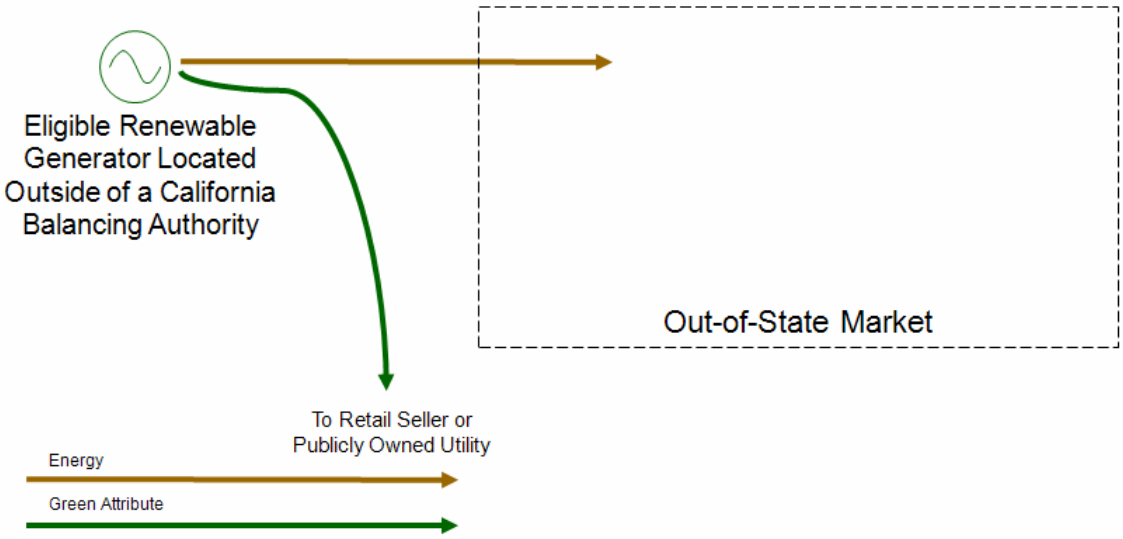


Figure 5

Direct Delivery Version A – Bucket 1 (Detailed)

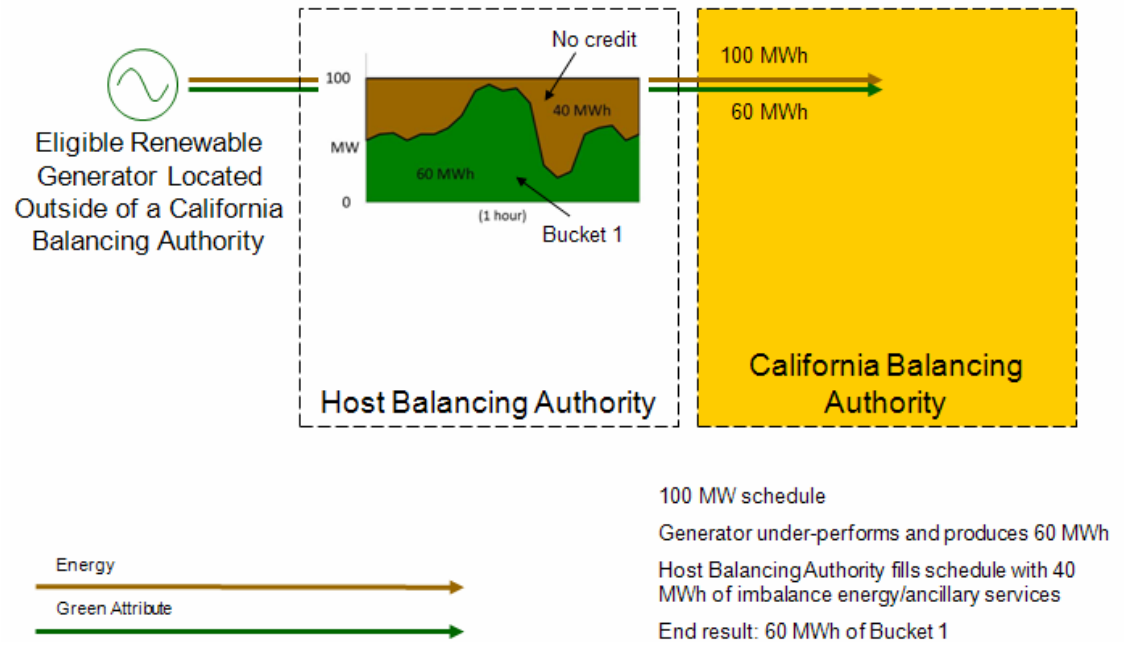


Figure 6
Direct Delivery Version B – Bucket 1 (Detailed)

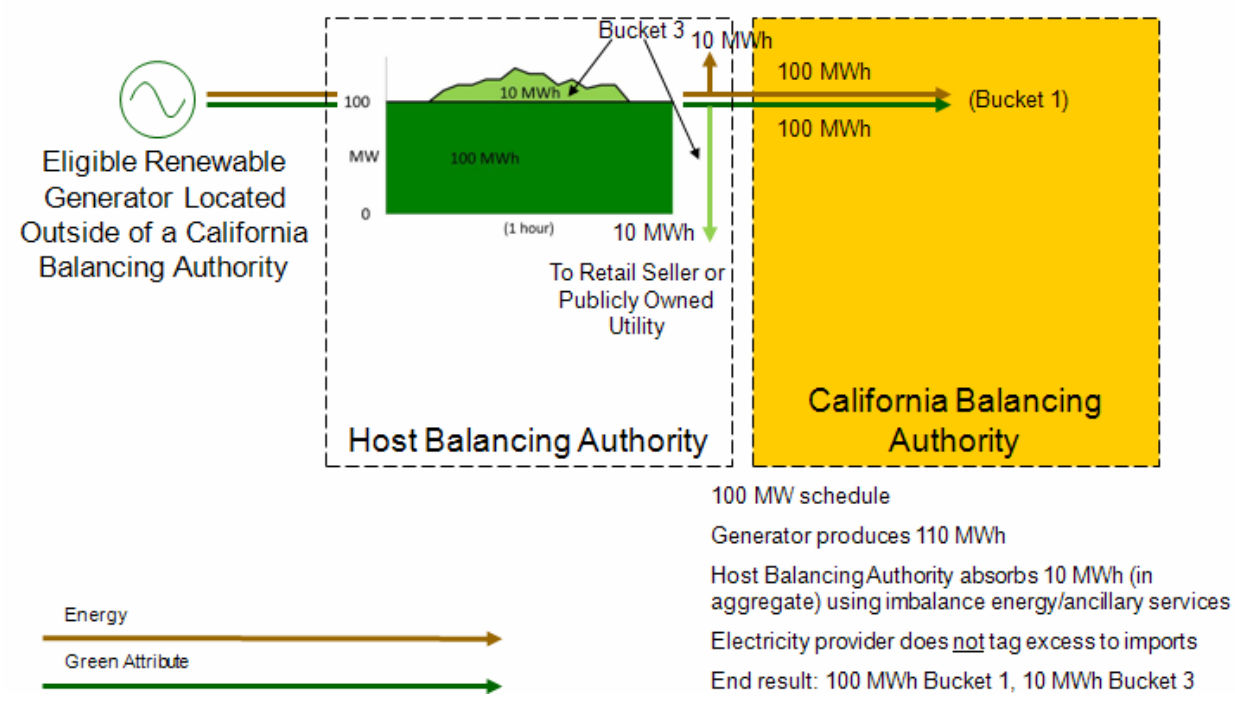
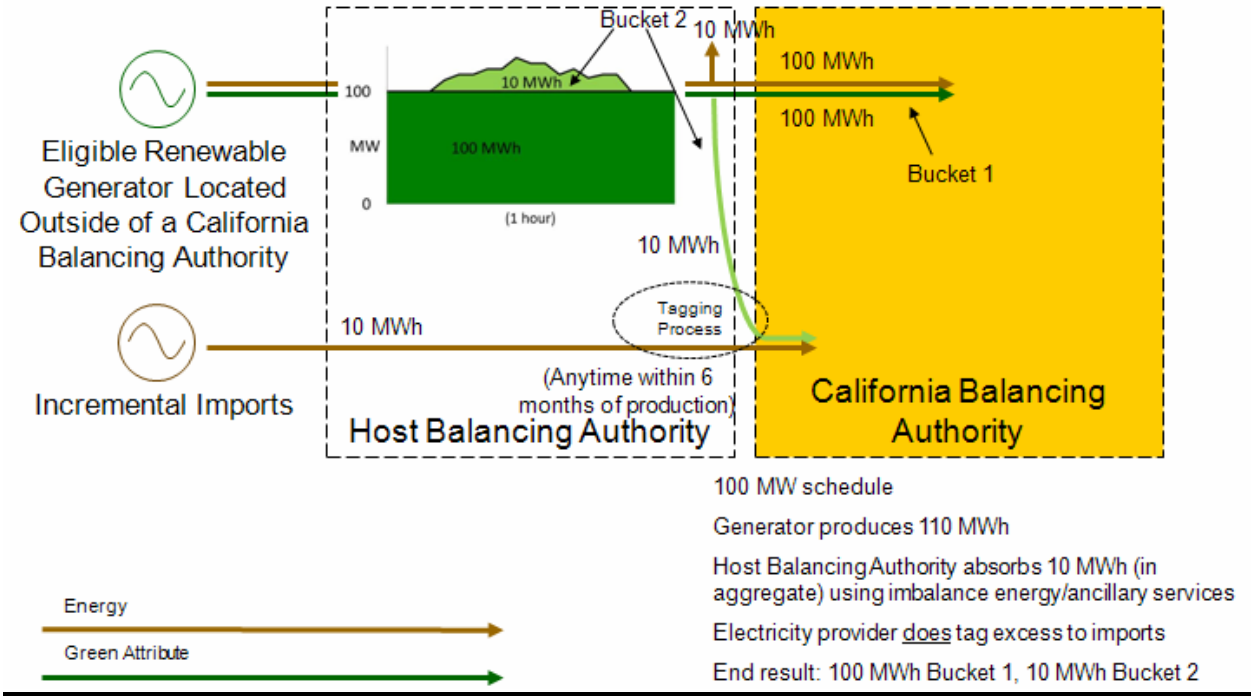


Figure 7
Direct Delivery Version C – Bucket 1 (Detailed)



CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the California Public Utilities Commission's Rules of Practice and Procedure, I have this day served a true copy of the **SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) COMMENTS TO ADMINISTRATIVE LAW JUDGE'S RENEWABLES PORTFOLIO STANDARD CATEGORIES RULING DATED JULY 12, 2011** on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

> Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **8th day of August, 2011**, at Rosemead, California.

/s/ Melissa A.S. Hernandez

By: Melissa A.S. Hernandez

Project Analyst
SOUTHERN CALIFORNIA EDISON COMPANY

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