



October 8, 2012



California Energy Commission
Dockets Office, MS-4
Re: Docket Nos. 11-RPS-01 RPS; 03-RPS-1078; and 02-REN-1038
1516 Ninth Street
Sacramento, CA 95814-5512

Via Email:
docket@energy.ca.gov

Re: RPS Proceeding: Docket Nos. 11-RPS-01 RPS; 03-RPS-1078; and 02-REN-1038:
Comments of the California Association of Small and Multi-Jurisdictional Utilities on
RPS Procurement Verification under SB X1-2

The California Association of Small and Multi-Jurisdictional Utilities (CASMU), which includes Bear Valley Electric Service (BVES), a division of Golden State Water Company, California Pacific Electric Company, LLC¹ (CalPeco), and PacifiCorp, d.b.a. Pacific Power (PacifiCorp), hereby submits these comments on California Energy Commission (CEC) reporting and verification requirements for Renewables Portfolio Standard (RPS) procurement under Senate Bill No. 2 of the California Legislature's 2011 First Extraordinary Session (SB X1-2).

As described more fully below, the CASMU utilities have different RPS requirements than other utilities based on their unique characteristics. As a result, additional reporting and verification requirements that are designed around the portfolio content categories (PCC) should be avoided, or at least simplified, for the CASMU utilities. Specifically, the CEC and the California Public Utilities Commission (CPUC) development of new tracking and PCC verification efforts should avoid imposing unnecessary processes on the CASMU utilities that

¹ CalPeco also does business in California as "Liberty Utilities-California Pacific Electric Company, LLC."

are not subject to the PCC obligations and limitations. Instead, the Western Renewable Energy Generation Information System (WREGIS) accounting system can be relied upon to verify virtually all of the CASMU utilities' RPS procurement eligibility validations.²

I. Introduction and Background

A. Unique Characteristics of the CASMU Utilities

BVES is a small electric utility in the Big Bear Lake recreational area of the San Bernardino Mountains that provides electric distribution service to approximately 21,900 residential customers in a resort community with a mix of approximately 40% full-time and 60% part-time residents. Its service area also includes about 1,400 commercial, industrial and public-authority customers, including two ski resorts. BVES' service territory is indirectly connected to the California Independent System Operator (CAISO) via Southern California Edison's distribution system under a Wholesale Distribution Access Tariff (WDAT).

CalPeco is an investor-owned electric utility that serves approximately 46,000 customers in the Lake Tahoe area of California. CalPeco has limited electrical connections with the rest of California and is not a part of the electrical grid controlled by the CAISO. Instead, CalPeco is included in NV Energy's multi-state balancing authority area, which is subject to Western Electricity Coordinating Council (WECC) reliability standards. CalPeco currently procures all of its RPS requirements from out-of-state resources through a single power purchase agreement with NV Energy.

PacifiCorp is a multi-jurisdictional electric utility (MJU) with approximately 1.7 million customers in California, Idaho, Oregon, Utah, Washington and Wyoming. Approximately

² The limited exception would be any PCC 1 or PCC 2 procurement undertaken by BVES, which is not anticipated to take place.

45,000 of those customers are located in Shasta, Modoc, Siskiyou and Del Norte counties in Northern California, representing less than two percent of the total retail load served across PacifiCorp's six-state system. PacifiCorp's California service territory is not part of the electrical grid controlled by the CAISO, but rather PacifiCorp is the balancing authority for its California service territory, which is operated on an integrated basis with other states in the western portion of its multi-state territory.

All of the CASMU utilities have relatively small customer bases when compared to California's largest investor-owned utilities (IOUs). Thus, the intricacies of the RPS program and its associated compliance, reporting and verification requirements, result in a disproportionately larger administrative burden on a per-customer basis than is realized by California's largest IOUs. The Legislature, in adopting RPS requirements, and the CEC and the CPUC in implementing those RPS requirements, together have recognized these differences. The CEC should rightly and properly continue to recognize the different requirements that apply to the CASMU utilities based on their unique characteristics, as well as the disproportionate impacts borne by the CASMU utilities due to RPS reporting and compliance.

B. Unique Treatment of the CASMU Utilities

BVES, as a small utility, is subject to slightly different RPS requirements as provided in Public Utilities Code Section 399.18. Similarly, CalPeco and PacifiCorp, as a successor to an MJU and as an MJU, respectively, are also subject to different RPS requirements as provided in Public Utilities Code Section 399.17. Pursuant to Sections 399.17 and 399.18, BVES, CalPeco and PacifiCorp are not subject to the limitations on the use of procurement in each PCC established by Public Utilities Code Section 399.16. The CPUC has confirmed and explicitly

recognized this exemption from the PCC limitations.³

Based on its exemption from the PCC restrictions, BVES can satisfy its entire procurement obligation under the RPS program using procurement from PCC 3 (§ 399.16(b)(3)), the category that includes unbundled renewable energy credits (RECs). Unbundled RECs will be the most economic and easily integrated RPS procurement option for BVES to meet its RPS targets. Accordingly, as described more fully in BVES' RPS Procurement Plan dated May 23, 2012,⁴ and as authorized by the CPUC, BVES expects to exclusively use unbundled RECs under a long-term contract (at least 10 years) to meet its RPS procurement obligations making additional review and verification of PCC 1 and PCC 2 procurement unnecessary for BVES.

In addition to the exemption from the PCC usage limitations, the criteria to determine excess RPS procurement are different for CalPeco and PacifiCorp than for other utilities. Specifically, the CPUC has determined that “the rules for excess procurement should take into account any unique characteristics of [small and multi-jurisdictional utilities] SMJUs within the RPS procurement framework.”⁵ As CalPeco and PacifiCorp operate outside of a “California balancing authority”, the CPUC has determined that only the following procurement should be excluded from counting as excess RPS procurement:

³Ordering Paragraph 16 of CPUC Decision (D.) 11-12-052 provides:

The procurement of small and multi-jurisdictional utilities that meet the requirements of Pub. Util. Code §§ 399.17 and 399.18 may count for compliance with the California renewables portfolio standard without regard to the limitations on the use of each portfolio content category established by Pub. Util. Code § 399.16(c), so long as all other procurement requirements for compliance with the California renewables portfolio standard are also met.

Pages 63-64 of the same decision provide a similar rationale for the CASMU utilities' exemption from the limitations on the use of PCCs.

⁴ BVES' May 23, 2012 RPS Procurement Plan is available at <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/RESP/167271.PDF>.

⁵ D.12-06-038, p. 70.

1. unbundled RECs;
2. purchased by an electrical corporation described in Section 399.17;
3. from third parties;
4. in contracts signed after June 1, 2010;
5. retired by the electrical corporation described in Section 399.17 for RPS compliance in a compliance period; and
6. in excess of the portfolio balance limits set out in Section 399.16(c)(2) and implemented in Section 3.7.1 of this decision.⁶

Accordingly, the bundled nature of procurement is the primary factor in determining excess RPS procurement for CalPeco and PacifiCorp. More importantly for RPS reporting and verification purposes, PCC classification plays no role in determining excess RPS procurement for CalPeco or PacifiCorp. Because the PCC limitations are irrelevant to compliance determinations for these utilities, there should be no need for verification processes to determine whether RPS procurement for CalPeco or PacifiCorp falls under a certain PCC. Similarly, as long as BVES does not procure PCC 1 or PCC 2 RPS products, it should be permitted to avoid unnecessary verification processes applicable to those entities that need to show a mix of products from different PCCs.

II. Comments on RPS Procurement Reporting and Verification under SB X1-2

A. RPS Procurement Verification Process

As described above, the CASMU utilities are not subject to the PCC usage limitations, and CalPeco and PacifiCorp have no need to classify procurement under the PCC classifications to determine excess procurement. Furthermore, BVES intends to satisfy all of its RPS obligations under a long-term contract for PCC 3 products, and therefore does not anticipate any need to verify procurement of PCC 1 or PCC 2 products for any excess procurement

⁶ D.12-06-038, p. 73.

determination. For these reasons, the CASMU utilities propose that the CEC adopt a simplified reporting and verification approach with respect to the CASMU utilities that relies on WREGIS Certificates. For PacifiCorp and CalPeco, additional showings can discern bundled and unbundled transactions.

At the September 21, 2012 workshop, CEC staff presented an initial proposal to analyze and verify hourly data for renewable facility meters and schedules, comparing the two data points to verify the classification of procurement as either PCC 1 or PCC 2. Such an analysis is unnecessary and overly complicated for the CASMU utilities since they are not subject to the PCC procurement obligation.⁷

Furthermore, as CalPeco and PacifiCorp are not located within a California balancing authority, only BVES could procure energy that may meet the definition of PCC 1 or PCC 2 products. However, BVES intends to minimize costs to ratepayers and only utilize PCC 3 REC claims. For these reasons, there is no need to verify schedules or use e-Tags to demonstrate that procurement by the CASMU utilities satisfies a particular PCC classification, as the PCC classifications are essentially meaningless for the CASMU utilities.⁸

It must also be noted that there is no basis to track and verify PCC categorizations for the CASMU utilities to verify subsequent re-sales of procurement because the fungibility of PCC products is limited. If an entity procures PCC 1 or PCC 2 generation, it cannot re-sell that product that has already been procured to a different entity as a PCC 1 or PCC 2 product.

⁷ This remains true even if the CEC ultimately determines to compare e-Tag data, rather than other schedule data, to metered data. The general consensus during the workshop was that e-Tag data is more appropriate to use in comparison to metered data when verifying PCC 1 procurement.

⁸ Only in the unanticipated event that BVES procures a PCC 1 or PCC 2 product and desires to claim that procurement under one of those product categories (as opposed to simply claiming such volumes as a category 3 product), would there be a need to more thoroughly evaluate and verify such procurement as a specific PCC product.

Instead, the re-sale of the energy transforms that generation into a PCC 3 product. Therefore, there is no reason to initially determine the PCC classification to potentially verify subsequent transactions or re-sales of energy.

For these reasons, the CEC's current verification process may continue to be used to verify the CASMU utilities' procurement and WREGIS may be heavily or exclusively relied upon to verify the bundled or unbundled nature of RPS procurement for the CASMU utilities. Additional documentation to verify procurement, such as interconnection agreements, metered or schedule data, or invoices, would be unnecessary to verify the procurement of the CASMU utilities, although verification of contract dates may be necessary. Using the current verification methodology and avoiding the unnecessary process and expense of additional reporting requirements will save ratepayers and the energy agencies both time and money while ensuring that RPS procurement complies with SB X1-2.

B. Reporting in WREGIS

The WREGIS reporting requirements proposed by staff at the September 21, 2012 workshop should also be modified to reflect the unique RPS procurement requirements for CalPeco and PacifiCorp. At the workshop, staff's proposal anticipated that each utility should establish a separate WREGIS retirement subaccount for each PCC product category on an annual basis. While setting up distinct retirement subaccounts in WREGIS for each PCC product category may be appropriate for most entities, it does not make sense for CalPeco or PacifiCorp based on the inapplicability of the PCC limitations and the insignificant nature of classifying procurement under the PCC product categories for those utilities. While a PCC 0 product category may be appropriate, the PCC 1, PCC 2, and PCC 3 product categories need not be tracked for CalPeco or PacifiCorp as such categorizations are meaningless for those utilities.

Instead, in addition to the PCC 0 product category, CalPeco and PacifiCorp should set up two other WREGIS retirement subaccounts corresponding to their bundled and unbundled RPS procurement. This will provide all of the information necessary to verify such procurement and make determinations about excess procurement.

For BVES, on the other hand, the four retirement subaccounts as proposed by the CEC may be appropriate as BVES is located within the CAISO balancing authority and has the ability to procure generation from the different PCC categories. However, the only retirement subaccount that is likely to be used by BVES is the PCC 3 product category subaccount, as procurement of PCC 3 will minimize customer costs. Therefore, it may be simpler for BVES to just make all claims as PCC 3, even if the product would qualify as PCC 1 or PCC 2, if BVES is not trying to carry forward an excess bank.

C. Reporting and Verification of PCC 0

The CEC and CPUC should utilize the existing documentation that the retail sellers have already provided to the CEC or the CPUC for procurement under the 20% RPS program. At the September 21, 2012 workshop, CEC staff stated an expectation that the CEC and CPUC would need to verify PCC 0 procurement documentation. If the eligible renewable procurement has already been verified by the CEC and is being used toward the 20% RPS program, then there should be no need for a retail seller to provide any additional documentation to re-verify the PCC 0 procurement.

D. Clarification of Reporting Retired RECs to CEC

The CEC should clarify in its guidebook that the reporting of retired RECs in WREGIS is different from how the retail seller may be using the retired RECs for a compliance period and

CPUC compliance reporting. At the September 21, 2012 workshop, CEC staff presented a proposal to report retired RECs for annual verification. This was premised on the notion that there would be some RECs that should be retired annually (RECs from qualifying facilities), RECs that were about to reach the 36 month time limit, or RECs that the retail seller chooses to retire in a specific year. This annual reporting to the CEC is to enable the CEC to perform some of its verification of the RPS procurement data annually. However, it should be clearly noted that the annual reporting periods that are being used for the CEC do not correlate with the multi-year RPS compliance periods and that the RECs ultimately used by a retail seller to meet its RPS targets for each compliance period and reported to the CPUC may differ from the annual data reported to the CEC.

III. Conclusion

The new program for tracking and validating RPS compliance should explicitly acknowledge that the CASMU utilities are exempt from the PCC procurement limitations. In the case of CalPeco and PacifiCorp, the PCC product categorization provides no useful basis for determining excess RPS procurement. Accordingly, the CEC should recognize these characteristics and the RPS procurement obligation rules that apply to these utilities and adopt a simple and straightforward reporting and verification methodology that will avoid needless complexity, time and expense for the CASMU utilities and the energy agencies. For verification of all RPS procurement by the CASMU utilities, the CEC and CPUC can verify procurement using WREGIS and do not need to require the submission or reporting of any additional documentation to verify procurement, with the exception of verifying certain contract provisions and dates. Additionally, the WREGIS reporting process should be modified for CalPeco and PacifiCorp to avoid automatic retirement into subaccounts that classify PCC product categories

that have no meaning for confirming their RPS compliance. Instead, retirement subaccounts should distinguish between PCC 0, and bundled or unbundled RPS procurement.

Respectfully submitted,



Jedediah J. Gibson
Ellison, Schneider & Harris, LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Telephone: (916) 447-2166
Facsimile: (916) 447-3512
Email: jjg@eslawfirm.com

Attorneys for the California Association of
Small and Multi-Jurisdictional Utilities